



Development of an assessment framework on environmental governance in the EU Member States

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ABSTRACT

This report arises from the Commission's Environmental Implementation Review process, a biennial assessment of Member State performance on implementation of EU environmental law and policy. It addresses an issue identified in the 2017 review as a root cause of implementation weaknesses; poor environmental governance. The report outlines the development of, and the rationale for, a standard assessment template, the Environmental Governance Assessment (EGA). It provides information from a first application of the EGA to the Member States, and outlines an approach to categorisation of Member State performance on a subset of the questions addressed in the EGA. It then draws some general lessons and offers recommendations, both for the future development of the EGA process, and on environmental governance itself.

The dimensions of environmental governance addressed by the EGA are: transparency; public participation; access to justice; compliance assurance and accountability; and effectiveness and efficiency. Shortcomings were identified in particular in respect of public participation – where Member States place insufficient emphasis on increasing levels of engagement; access to justice – where individuals and to a lesser extent NGOs face obstacles; and on compliance assurance – where public information on enforcement action was often limited. The report also identifies a number of good practices.

EXTRAIT

Ce rapport découle du processus, mené par la Commission, d'examen de la mise en œuvre de la politique environnementale (EIR), une évaluation biannuelle de la performance des États membres en termes de mise en œuvre des politiques et législations environnementales de l'UE. Il aborde une question identifiée dans le rapport EIR de 2017 comme une cause profonde des faiblesses dans la mise en œuvre : des faiblesses en termes de gouvernance environnementale. Le rapport décrit le développement, ainsi que la raison d'être, d'un modèle standard d'évaluation, l'Évaluation de Gouvernance Environnementale (EGA). Il présente les informations émanant d'une première application de cet EGA aux États membres, et présente une approche de catégorisation de la performance des États membres vis-à-vis d'un sous-ensemble de questions abordées dans l'EGA. Le rapport tire ensuite des leçons générales et présente des recommandations portant à la fois sur le développement futur du processus de l'EGA et sur la gouvernance environnementale elle-même.

Les dimensions de la gouvernance environnementale abordées par l'EGA sont: la transparence; la participation du public; l'accès à la justice; l'assurance du respect de la législation et l'imputabilité; et l'efficacité et l'efficience. Des lacunes ont en particulier été identifiées en termes de participation du public, où les États membres ne mettent pas suffisamment l'accent sur un accroissement des niveaux d'engagement; d'accès à la justice, où les individus, et dans une moindre mesure les ONG, font face à des obstacles; et d'assurance de respect de la législation, où l'information du public sur les mesures d'application était souvent limitée. Le rapport identifie également un certain nombre de bonnes pratiques.

EXECUTIVE SUMMARY

Closing the implementation gap in the field of EU environment policy has been an important priority for the Commission under the 7th Environmental Action Programme. The Commission published, for the first time, an Environmental Implementation Review (EIR) in February 2017, assessing Member State performance in implementation of EU environmental policy and law. Among the systemic reasons it identified for a lack of good progress was the way in which national, regional and local authorities manage the development of environmental policy, and pursue compliance assurance. The Commission noted during this first round of the EIR that the methodological approaches for assessing Member State's implementation performance are not mature, and that relevant data and information enabling a comparison between Member States on environmental governance were not readily available.

This project was designed to address this gap in assessment, by developing an assessment framework for environmental governance, and applying it in a consistent and comparable way to each of the 28 Member States. This has already contributed to the second round of the EIR, published in April 2019¹, in particular the sections 5 on governance in each of the EIR country reports. The project also sought to identify specific issues related to environmental governance where further discussion and sharing of experience and practice among Member States could contribute to improvement, and to identify good practices which might be capable of wider application.

The project adopted the following definition of environmental governance:

“An inclusive system of actors, institutions and norms that establishes responsibility and accountability, and builds trust and capacity to cooperate in policymaking, decision-making, implementation and enforcement, in the field of environment.”

Applying this definition required a consideration of governance in the context of the EU environmental *acquis*, as well as the Sustainable Development Goals and relevant international agreements such as the Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters² (the Aarhus Convention) and the Convention on Environmental Impact Assessment in a Transboundary Context (the Espoo Convention)³.

Based on a literature review, including a review of European assessment frameworks of related issues, five dimensions were identified as the basis for the assessment of environmental governance. These five dimensions are:

- Transparency
- Public participation
- Access to justice (as a focus in the wider Rule of Law dimension)
- Compliance assurance and accountability
- Effectiveness and efficiency

1 The [second Environment Implementation Review, 2019](#) (EIR)

2 The United Nations Economic Commission for Europe (UNECE) [Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters](#)

3 UNECE Convention on [Environmental Impact Assessment in a Transboundary Context](#)

Within these five dimensions, 21 themes were identified, together with a cross-cutting contextual theme examining governance structures.

A range of questions was identified, based on this assessment framework, which formed the basis of the assessment of environmental governance characteristics and performance in the Member States. Questions were included based on a combination of relevance, perceived likelihood of identifying similar information in different Member States to provide answers, and comparability of the resulting information (and thus the extent to which they could be used to generate information at an EU-wide level).

Initial drafts of the governance assessments for each Member State were prepared based on publicly available information, not supplemented by interviews or questions to the Member State authorities, in an effort to avoid placing excessive demands on the time of relevant officials.

Member States were then given an opportunity to respond to the draft assessments, commenting on or correcting errors of fact, responding to specific requests for additional information, or providing further information which they considered relevant. In addition, three workshops were held with Member State officials and other stakeholders over the course of the project, initially to discuss the draft assessment framework; then to discuss the emerging assessments; and finally to discuss the emerging findings of this report and consider approaches to the categorisation of performance.

In order to help in identifying patterns of approaches to environmental governance, and to compare performance between Member States in broad terms, the project developed an approach to categorisation of performance in relation to individual questions, in order to build up a picture of the broad performance for each Member State at the level of each dimension. The categorisation was based on assigning a simple numerical value to categories of performance in respect of individual questions.

The approach adopted to categorisation shares some of the characteristics of multi-criteria analysis, in that it aims to arrive at a robust overall assessment by building up a composite picture from individual elements. In this case, the elements used are the assessment of individual questions against the criteria identified. A number of caveats need to be borne in mind in using these categorisations of performance, and are set out in the report.

Therefore, the categorisations should not be treated as a detailed report card for and judgement on each Member State. However, they are a broadly reliable mechanism for identifying those dimensions for each Member State where performance in relation to the issues addressed by the assessment questions is not demonstrably strong, and where individual Member States might therefore wish to consider, and potentially learn from, or even adopt, good practices identified in other Member States.

Specific issues emerging from the analysis of governance performance under the five dimensions include:

Transparency

All Member States make clear efforts towards active dissemination of environmental information but the environmental issues concerned vary. Issues which may be of direct relevance to individuals, particularly air quality, tend to have more information provided; suggesting that transparency is regarded primarily as a means of communicating directly relevant information, rather than in encouraging greater public

participation in decision-making. Responses to information requests from members of the public appear to be generally good, although with significant variation in the time allowed for responses, and with concerns in some Member States on the effectiveness of processes for challenging administrative decisions to refuse access.

Public participation

There is some indication of correlation between efforts at Member State level to encourage public participation, and the level of confidence among members of the public in both their ability to influence environmental outcomes, and in national governments.

Perhaps the most striking aspect of the findings is that in nearly all Member States, there is little data available on the level of public participation in practice. In some cases, there is evidence of declining or low levels of participation in environmental impact assessment procedures. There is also a tendency for public participation to focus on locally relevant issues or proposals, rather than on broader questions of environmental policy.

Access to justice

In general, it is clear that environmental NGOs have progressively been granted more liberal rights to bring cases, particularly challenges to governmental decisions, than individuals. Other issues can still generate barriers to effective access to justice, however, particularly costs, and in some cases a lack of confidence in the effectiveness of the remedies which can be granted by the courts. The quality of the information that Member States provide to their citizens on the scope for them to access environmental justice varies, with some providing little or inadequate information.

Compliance assurance

The project noted significantly different approaches in the provision of information to businesses on how to comply with environmental obligations, with some good practice, alongside a number of examples where Member States appeared to be failing to provide accessible information appropriate to the audience. The public availability of information on planning of inspections was also varied, as was the level of reporting on follow-up to cases of non-compliance and it was particularly noticeable that information on the follow-up to breaches of cross-compliance conditions for agricultural subsidies was rarely available.

Effectiveness and efficiency

There is little evidence available on administrative capacity and what influence it has on the effectiveness of environmental implementation. Several Member States appear to be making progress on implementing online portals and one-stop shops, which can help to address problems associated with dispersed government responsibility for environmental issues. While many Member States in principle have in place systems for regulatory impact assessment which integrate environmental issues, effective practice in this area seems to be much rarer. A number of Member States have chosen not to introduce an overarching strategy on environmental policy and its implementation. The use of electronic services is increasing often as part of wider eGovernment initiatives.

An over-arching observation of the report is that, while efforts are clearly made by Member States to ensure transparency, public participation, and access to justice - in some cases going beyond the minimum legal requirements - there does not appear to be an enthusiastic focus among government decision-makers on the broader benefits of public engagement in improving environmental decision-making, and environmental outcomes. This, in turn, may lead to a lack of focus on ensuring that opportunities for engagement and participation are taken up by the public.

The attempt to categorise and assess Member State performance across the five dimensions was useful as a means to illustrate and summarise results, identify patterns, and identify those countries with more advanced systems in place in specific dimensions. It has also highlighted some research challenges, and enabled us to make recommendations on how the assessment framework can be developed further. We have also noted that environmental governance is a dynamic area, and efforts at improvement are being undertaken in many Member States, which may lead to changes in the categorisation of performance.

Finally, the summary and conclusions of this report outline, in addition, some suggestions for further development of the assessment framework, and specific policy suggestions at both Member State and EU level. The annexes, which are listed at the end of this report, include the Environmental Governance Assessments for each Member State, which form the main output of the project.

Résumé

Comblant les lacunes dans la mise en œuvre de la politique environnementale de l'Union Européenne (UE) a été une priorité pour la Commission dans le cadre du septième programme d'action communautaire pour l'environnement (ci-après 7^e PAE). En février 2017, pour la première fois, la Commission a publié un examen de la mise en œuvre de la politique environnementale (EIR), évaluant les performances des États membres en matière de mise en œuvre des politiques et législations environnementales de l'UE. Parmi les raisons systémiques identifiées comme responsables d'un manque de progrès satisfaisant figuraient la façon dont les autorités nationales, régionales et locales gèrent le développement de la politique environnementale, et veillent à l'assurance du respect de la législation environnementale. Au cours de ce premier cycle de l'EIR, la Commission a noté que les approches méthodologiques pour évaluer les performances des États membres en termes de mise en œuvre n'étaient pas matures, et que les données et informations adéquates pour permettre une comparaison entre les États membres en termes de gouvernance environnementale n'étaient pas disponibles.

Ce projet a été conçu pour répondre à cette lacune évaluative, en développant un cadre d'évaluation pour la gouvernance environnementale, et en l'appliquant d'une façon cohérente et comparable à chacun des 28 États membres. Ce travail a déjà contribué au deuxième cycle de l'EIR, publié en avril 2019, notamment aux sections traitant de la gouvernance dans chacun des rapports par pays (section 5). Ce projet a aussi cherché à identifier les questions spécifiques liées à la gouvernance environnementale où des discussions plus approfondies ainsi que l'échange d'expériences et de pratiques entre les États membres pourraient contribuer à une amélioration, ainsi qu'à identifier les bonnes pratiques susceptibles d'être appliquées plus généralement.

Le projet a adopté la définition suivante de la gouvernance environnementale:

« Un système inclusif d'acteurs, d'institutions et de normes qui établit la responsabilité et l'imputabilité, et bâtit un climat de confiance et de compétence pour coopérer vis-à-vis de l'élaboration des politiques, la prise de décision, la mise en œuvre et l'exécution, dans le cadre de l'environnement. »

Appliquer cette définition a exigé de prendre en compte la gouvernance dans le contexte des acquis environnementaux de l'UE, ainsi que les objectifs de développement durable et les accords internationaux pertinents tels que la Convention sur l'accès à l'information, la participation du public au processus décisionnel et l'accès à la justice en matière d'environnement (Convention d'Aarhus) et la Convention sur l'évaluation de l'impact sur l'environnement dans un contexte transfrontière (Convention d'Espoo).

A partir d'une analyse de la littérature existante, dont un examen des cadres d'évaluation européens existants liés à des questions connexes, cinq dimensions ont été identifiées comme formant la base de l'évaluation de la gouvernance environnementale. Ces cinq dimensions sont:

- Transparence
- Participation du public
- Accès à la justice (comme un sujet d'intérêt spécial dans le champ de l'état de droit)
- Assurance du respect de la législation
- Efficacité et efficience

Au sein de ces cinq dimensions, 21 thèmes ont été identifiés, conjointement avec un thème transversal et contextuel étudiant les structures de gouvernance.

A partir de ce cadre d'évaluation, une série de questions ont été identifiées, formant la base de l'évaluation des caractéristiques et de la performance de la gouvernance environnementale dans les États membres. Les questions ont été incluses selon une combinaison de pertinence, de probabilité perçue d'identifier des informations similaires dans différents États membres afin d'apporter des réponses, et de comparabilité de l'information en résultant (et donc la mesure dans laquelle ces questions peuvent être utilisées pour générer des informations à un niveau européen).

Des versions préliminaires des évaluations de gouvernance pour chaque État membre ont été préparées sur la base d'informations disponibles publiquement, non complétées par des entretiens ou des questions aux autorités des États membres, afin d'éviter de demander trop de leur temps aux fonctionnaires concernés.

Les États membres ont ensuite eu l'opportunité de réagir aux versions préliminaires des évaluations, en commentant ou en corrigeant des erreurs de fait, en répondant à des sollicitations spécifiques pour des informations supplémentaires, ou en fournissant des approfondissements qu'ils considéraient pertinents. De plus, trois ateliers ont été organisés au fil du projet avec des officiels des États membres ainsi que d'autres parties intéressées, tout d'abord pour examiner la version préliminaire du cadre d'évaluation ; puis pour examiner les évaluations émergentes ; et enfin pour traiter des premières constatations de ce rapport et pour considérer différentes approches de la catégorisation de la performance.

Afin d'aider à l'identification de types d'approches à la gouvernance environnementale, et de comparer d'une manière générale la performance entre États membres, le projet a développé une approche de catégorisation de la performance en termes de questions individuelles, afin de dresser un tableau de la performance générale de chaque État membre au niveau de chaque dimension. La catégorisation a été construite en attribuant une simple valeur numérique aux catégories de performance pour chaque question individuelle.

L'approche adoptée pour la catégorisation des performances présente quelques points communs avec l'analyse multi-critérielle, dans le sens où le but est d'arriver à une évaluation globale robuste en dressant un tableau composite à partir d'éléments individuels. Dans ce cas-ci, les éléments en question sont les évaluations des questions individuelles en fonction des critères identifiés. En utilisant ces catégorisations de performance, un certain nombre de réserves doivent être gardées à l'esprit, et sont exposées dans le rapport.

De ce fait, les catégorisations ne devraient pas être considérées comme un bulletin de note détaillé pour, et un jugement sur, chaque État membre. Elles représentent cependant un mécanisme globalement fiable pour identifier pour chaque État membre les dimensions pour lesquelles la performance vis-à-vis de l'objet des questions de l'évaluation n'est pas visiblement robuste, et où les différents États membres pourraient donc souhaiter considérer, et potentiellement apprendre de, ou même adopter, les bonnes pratiques identifiées dans d'autres États membres.

Parmi les observations du rapport découlant de l'analyse de la performance gouvernementale à travers les cinq dimensions figurent les suivantes:

Transparence

Tous les États membres font des efforts manifestes pour la diffusion active d'informations environnementales ; mais les questions environnementales concernées varient. Les questions pouvant concerner directement les particuliers, notamment la qualité de l'air, tendent à résulter en davantage d'informations communiquées ; ce qui suggère que la transparence est vue principalement comme un moyen de communiquer les informations directement pertinentes, plutôt que comme un moyen d'encourager une plus grande participation du public au processus décisionnel. Les réponses aux demandes d'information du public semblent être généralement bonnes, quoiqu'avec un temps de réponse variant significativement, et avec des inquiétudes dans certains États membres sur l'efficacité des procédés pour contester les décisions administratives de refus d'accès.

Participation du public

Il semble y avoir une corrélation entre les efforts au niveau des États membres pour encourager la participation du public, et le niveau de confiance des membres du public à la fois dans leur capacité à influencer les résultats environnementaux et dans les gouvernements nationaux.

L'aspect le plus frappant des conclusions est probablement le fait qu'il y ait dans presque tous les États membres peu de données disponibles sur le niveau de participation du public en pratique. Dans certains cas, le niveau de participation dans les procédures d'évaluation d'impact sur l'environnement semble en baisse ou faible. On peut aussi constater une tendance de la participation du public à se focaliser sur des questions ou des propositions pertinentes localement, plutôt que sur des questions plus larges de politique environnementale.

Accès à la justice

En général, il semble que les ONG environnementales ont progressivement été dotées de plus de droits libéraux pour saisir les tribunaux, notamment en cas de contestation des décisions gouvernementales, que les individus. Cependant, d'autres questions peuvent encore engendrer des obstacles à un accès effectif à la justice, en particulier les coûts, et dans certain cas un manque de confiance en l'efficacité des recours qui peuvent être accordés par les tribunaux. La qualité des informations fournies aux citoyens par les États membres sur le champ des recours possibles pour accéder à la justice environnementale varie, certains ne fournissant que des informations insuffisantes ou inappropriées.

Assurance du respect de la législation

Le projet a souligné des approches considérablement différentes dans la transmission d'informations aux entreprises sur la façon de se conformer aux obligations environnementales, avec quelques bonnes pratiques, en même temps que plusieurs exemples où les États membres semblent échouer à fournir des informations accessibles adaptées au public visé. La disponibilité publique de l'information sur la planification des inspections était également variée, tout comme le nombre de rapports lors du suivi des cas de non-respect des obligations ; et il est à noter en particulier que les

informations sur le suivi des violations des éco-conditionnalités pour les subventions agricoles étaient rarement disponibles.

Efficacité et efficience

Il existe peu de données sur les capacités administratives ou sur leur impact quant à la mise en œuvre environnementale. Plusieurs États membres semblent progresser dans la mise en œuvre de portails en ligne et de guichets uniques, qui peuvent aider à faire face aux problèmes associés à une responsabilité gouvernementale dispersée en matière de questions environnementales. Tandis que beaucoup d'États membres ont en principe mis en place des systèmes pour des évaluations d'impact régulières intégrant les questions environnementales, une mise en pratique effective dans ce domaine semble bien plus rare. Un certain nombre d'États membres ont choisi de ne pas introduire de stratégie directive sur la politique environnementale et sa mise en œuvre. L'utilisation des services électroniques augmente, souvent dans le cadre d'initiatives plus larges d'administration en ligne.

De ce rapport ressort globalement que, tandis que les États membres font manifestement des efforts pour garantir la transparence, la participation du public, et l'accès à la justice, allant dans certain cas au-delà des exigences légales minimum, il ne semble pas y avoir d'intérêt enthousiaste parmi les décideurs des gouvernements envers les bénéfices plus larges de l'engagement du public, en termes de l'amélioration de la prise de décision environnementale, ou des résultats environnementaux. Ceci, en retour, pourrait résulter en un manque d'accent mis sur les actions garantissant que les opportunités pour s'engager et participer soient saisies par le public.

La tentative dans ce projet d'une catégorisation de la performance des États membres dans les cinq dimensions s'est avérée utile comme un moyen d'illustrer et de résumer les résultats de l'évaluation, d'identifier des tendances et d'identifier les pays dotés de systèmes plus développés dans certaines des dimensions. Elle a également mis en évidence plusieurs défis à surmonter dans ce domaine de recherche et nous a permis de formuler des recommandations sur le développement futur du cadre d'évaluation. En outre, la gouvernance environnementale est un domaine dynamique ; des initiatives visant à l'améliorer sont en cours dans un grand nombre d'États membres qui pourraient avoir un effet sur la catégorisation de leurs performances.

Les conclusions de ce rapport présentent en outre quelques suggestions pour la poursuite du développement du cadre d'évaluation, ainsi que des suggestions spécifiques en termes de politiques, à la fois au niveau des États membres et de l'UE. Les annexes, listées à la fin de ce rapport, incluent les Évaluations de Gouvernance Environnementale pour chaque État membre, qui constituent le principal résultat du projet.

1. INTRODUCTION

Closing the implementation gap in the field of EU environment policy has been an important priority for the Commission under the 7th Environmental Action Programme. As part of its activity in this area the Commission published, for the first time, an Environmental Implementation Review (EIR) in February 2017. Among the cross-cutting, systemic reasons it identified for a lack of good progress in implementation of environmental legislation was the way in which national, regional and local authorities manage the development of environmental policy, and manage compliance assurance. A number of issues were identified for individual Member States, including issues related to compliance assurance, access to justice, environmental liability, and access to spatial information. During this first round of the EIR exercise, it became clear that the methodological approaches for assessing Member State's implementation performance are not mature in these areas. Moreover, relevant data and information, which would enable comparison between Member States to underpin an assessment of environmental governance, is often not readily available.

This project aims to address this gap, by developing an assessment framework for environmental governance, and applying it in a consistent and comparable way to each of the 28 Member States. This has already contributed to the second round of the EIR, published on the 5 April 2019⁴, in particular section 5 on governance in each of the EIR country reports. Furthermore, it complements the work of the Commission in the context of improving the quality of public administration, translating the wider work carried out in the context of the European Semester⁵ into the context of EU environment policy. It also seeks to identify specific issues related to environmental governance where further discussion and sharing of experience and practice among Member States could contribute to improvement, and to identify good practices which may be capable of wider application.

The bulk of the work in this project consists in the development of the assessment framework, and its application to the 28 Member States, resulting in the Member State Environmental Governance Assessments which are published alongside this report. This final report, and the presentation material developed in parallel with it, aims to explain the approach we have developed, and, on the basis of the Member State Environmental Governance Assessments, to identify patterns of strengths and weaknesses, areas where improvements appear achievable, and areas where practices in some Member States appear to be of wider interest as a model.

The project benefited from discussion with Member State officials and other stakeholders at three Stakeholder Workshops, in February 2018, September 2018, and January 2019, which provided valuable ideas at different stages of the work (development of the assessment framework; identifying emerging findings from first drafts of the Member State assessments; and considering approaches to the categorisation of performance, respectively).

To our knowledge, such a comprehensive overview of environmental governance in the EU has never been undertaken; this work should therefore be treated as exploratory, and a contribution to further discussion on the importance of environmental governance for achieving implementation and compliance of EU environmental laws. The findings, including the country assessments, have been based mainly on our research, including an initial attempt to apply a categorisation of performance to the information gathered on specific questions. The categorisation results should be treated with caution, since the criteria have not been validated

4 The second [Environment Implementation Review, 2019](#) (EIR)

5 See [European Semester Thematic Factsheet on "Quality of Public Administration"](#)

in discussion with Member States, and in any case have been applied to a limited number of questions where the information gathered in our research appeared to allow a comparison.

2. THE ASSESSMENT FRAMEWORK

2.1. Development of the assessment framework

In accordance with the Terms of Reference and our project proposal, we further elaborated the Environmental Governance assessment framework used in the initial Environmental Implementation Review conducted in 2017, by defining environmental governance for the purposes of further project work; and defining the scope of a comprehensive, balanced and realistic assessment framework that could be carried out across the 28 EU Member States.

We adopted the following definition of environmental governance:

“An inclusive system of actors, institutions and norms that establishes responsibility and accountability, and builds trust and capacity to cooperate in policymaking, decision-making, implementation and enforcement, in the field of environment.”

Applying this definition required us to consider governance in the context of the EU environmental *acquis*, as well as the expectations in this field associated with EU Member State status, which include adherence to the Sustainable Development Goals as well as to relevant international agreements such as the Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters⁶ (Aarhus Convention) and the Convention on Environmental Impact Assessment in a Transboundary Context (Espoo Convention)⁷. The definition of the scope of the assessment framework also took into account the literature review, including a review of related assessment frameworks, as explained in section 2.2 below.

The Scoping Paper of a Conceptual Framework, entitled “Development of an assessment framework on environmental governance in the EU Member States” benefited from comments from Commission services, and from discussions with Member State experts and various stakeholders at the First Stakeholder Workshop in Brussels on 27 February 2018. It also developed further as a result of the development and use of the assessment template described in section 2.3 below. The final version of the Scoping Paper (also referred as the assessment framework) is attached as Annex 1 to this Final Report.

The assessment was undertaken at three levels as proposed in the Scoping Paper:

- **Level 1:** aggregation to the level of dimensions, being the five dimensions listed in the Commission terms of reference (ToR) for this project plus a “context” dimension.
- **Level 2:** aggregation to the level of themes.
- **Level 3:** individual indicators or assessment criteria, per theme.

The assessment was then carried out in two steps:

- **Overall assessment** across the environmental policy domain.
- **Specific assessment** to the extent practicable, feasible, and relevant in some or all of the following seven areas: air, nature, water, chemicals, industrial, and waste as well as horizontal legislation (such as Environmental Impact Assessment (EIA) and Strategic

6 The United Nations Economic Commission for Europe (UNECE) [Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters](#)

7 [UNECE Convention on Environmental Impact Assessment in a Transboundary Context](#)

Environmental Assessment (SEA), and access to environmental information). Where appropriate (for example where there is also a lack of horizontal data), specific areas were selected for illustrative purposes, and in order to deliver comparable information across the Member States within the research budget available to the project. Thus, the seven areas are only addressed individually for some of the themes.

The five dimensions of Environmental Governance used to structure the framework remained largely stable through the course of the project, but were modified and restructured as a result of the Commission and stakeholder feedback described above, and the process of development of the governance assessments themselves, and to match the approach taken in the Commission's Environmental Implementation Review. The five dimensions as used in the final version of the Governance Assessments were:

Transparency

Participation

Access to justice (as a specific focus in the wider Rule of Law dimension)

Compliance assurance and accountability

Effectiveness and efficiency

Within these five dimensions, 21 themes were identified. A cross-cutting theme on 'Context and characteristics of environmental governance' was also included to provide the needed institutional set up for the understanding of the information in the five dimensions. Some of the issues addressed by the individual themes sometimes have relevance to more than one dimension, they were allocated to a specific dimension for the purpose of structuring our analysis.

The 21 themes are shown in Table 1 below, and described in the Scoping Paper at Annex 1. Under each theme description in the Annex, the linkages with other dimensions and themes are described, and a non-exclusive representative list of the sources of data relevant to each theme is also set forth. This list of sources of data is reflected in the Literature Review that was further developed.

Given the timeframe for the project and the resources available, the project employed a step-by-step approach to the assessment. Specifically, while the Scoping Paper began with the design of a comprehensive framework for the eventual assessment of a wide range of environmental governance considerations, it also distinguished between those themes that we considered to be reasonably assessable within project limitations, and those for which a full assessment could require further research beyond the time and resources available.

The initial selection of 15 priority themes was based on our appraisal of those themes for which there was likely to be good quality information readily available across the 28 EU Member States. By focusing on these 15 themes our intention was to generate a much clearer and more nuanced picture in comparison with undertaking a shallower investigation across all 21 themes. The priority themes are shown in bold below in Table 1. The numbers shown after each theme indicate the numbering of the sections in the final versions of the Member State Environmental Governance Assessments which are published alongside this report.

Table 1: Selected themes for further assessment

Context	Transparency	Participation	Access to Justice	Compliance assurance and Accountability	Effectiveness and Efficiency
Context and characteristics of environmental governance (2)	Evidence and reporting (3.1.1)	Public participation (3.2.1)	Practical information (3.3.1)	Promotion, monitoring, Enforcement (3.4.1)	Enabling financing (3.5.1)*
	Access to information (3.1.2)	EIA/SEA (3.2.2)	Access to justice (3.3.2)	Complaint handling (3.4.2)	Administrative capacity (3.5.2)
	Reliability/ quality (3.1.3)	Public confidence (3.2.3)*	Effective remedies (3.3.3)	Liability (3.4.3)	Cross-sectoral coordination (3.5.3)
		Equitability/ inclusiveness (3.2.4)*	Judicial capacities (3.3.4)		Integrated assessment (3.5.4)*
			Corruption (3.3.5)		Flexibility/ adaptability (3.5.5)*
Note: *These themes were accorded a lower priority as compared to the others in the research.					

The approach was tested with a focus on 15 priority themes in a pilot country assessment phase, the results of which are reported in section 2.3 below. This pilot phase was an opportunity to test the availability of data and the relevance and interpretation of key concepts in a varying selection of Member States (Austria, Belgium and Poland).

As expected, there was some variation across the 28 Member States with respect to the quality of information available for each selected theme. In the final outcome, quality information could be generated with respect to a few themes other than those that we initially judged to be priority themes. An example is Theme 3.5.1 – practical information about availability of access to justice in environmental matters. The revised template developed for the assessment for all 28 Member States included questions for each of the 21 themes, but with more detail requested on the priority themes.

2.2. Literature review

To start with, the study embarked on a review of existing assessment frameworks and analysis of strengths and weaknesses, similar to a “SWOT” analysis, but focused not on the objectives of those frameworks themselves but on their potential contribution to this project. The aim was to provide a comprehensive survey of the literature on existing analogous frameworks both at EU level and in international contexts. The purpose of the literature survey was to inform the assessment of environmental governance, based on an analysis of the strengths, weaknesses, opportunities and threats associated with each framework.

As a result, a two-part Literature Review was prepared as follows:

1. A Master Literature List, consisting of policy documents, research studies and academic literature on environmental and related governance, with correspondence between the list and the indicators identified in the assessment phase, by inserting footnotes with references to the literature into the assessment template.
2. The relevant analytical frameworks and projects, analysed through “Framework Analysis” (instead of SWOT analysis) in terms of their positive relevance, with some discussion of limitations, to the project to develop an Environmental Governance Assessment Framework.

The Master Literature List was developed and continuously updated throughout the project. Among the types of literature included in the list were: EU tools, studies, and initiatives; related sources from Member States; non-EU tools, studies and initiatives; relevant EU Directives, strategies and action programmes; relevant multilateral environmental agreements; and academic literature. In preparing the draft assessments country researchers were encouraged to identify areas where information was not readily available, or where information was ambiguous, and to frame specific questions seeking input from the relevant Member State, including the identification of additional sources of information. In parallel, specific references to relevant literature, assessment frameworks and other available material were incorporated via revisions to the template of the governance assessment through annotations that indicated those resources that were most relevant to producing the assessments in their actual application in practice.

The other part of the Literature Review – the Framework Analysis – proceeded on the basis of a preliminary list of assessment frameworks that was developed in the initial proposal stage. The list was continuously modified as a result of research conducted under the study. The final list of frameworks assessed is as follows:

1. e-Government Benchmark Report by DG Connect
2. EU Justice Scoreboard 2017
3. EU SDG Indicator Set by Eurostat
4. World Justice Project Rule of Law Index 2017-18
5. Flash Eurobarometer 2017 and Standard Eurobarometer 2017
6. Reporting frameworks under the Aarhus Convention
7. Digital Single Market Scoreboard by DG Connect
8. UNITAR framework relating to Rio Principle 10
9. Bertelsmann Sustainability Governance Indicators
10. OECD Environmental Performance Reviews
11. Environmental Liability Directive Study Reports
12. Aarhus Convention Indicators
13. European Public Administration Country Knowledge (EUPACK)
14. Monitoring of progress under the Energy Union
15. European Quality of Government Index 2017
16. IMPEL Review Initiative
17. IMPEL 2015 Implementation Challenge Report and 2016 and 2017 Follow Up
18. “Towards an improved assessment of environmental compliance assurance”
19. Outputs from Umbrella Cooperation Programme between World Bank and DG REGIO: Actionable Regulatory Governance Indicators for EU Regions (ARGI), Public Sector Governance Indicators for EU Regions (PSGI), Indicators of Citizen-Centric Public Service Delivery (CPSD)

The frameworks were analysed for their positive relevance to the development of the Environmental Governance Assessment Framework. Consequently, each examined framework was placed within the context in which it was used, followed by a discussion of its overall

relationship to environmental governance, the extraction of good practice examples from its application, the limitations of the framework, and an analysis of its relevance to specific themes. Each Framework Analysis concluded with a summary statement on the framework's potential value to environmental governance assessment.

A few frameworks had broad relevance across the dimensions, while most had specific reference to individual dimensions and themes. Given the interrelatedness of the dimensions and themes, there was frequent overlap in different areas. The details about the applicability of the frameworks to dimensions and themes are described in Annex 2.

Table 2 outlines the positive aspects of the Framework Analyses relevant to our Environmental Governance Assessment.

Table 2: Summary table: Relevant positive aspects of Framework Analyses

Framework Analysis	Relevant positive aspects
e-Government benchmark report by DG CONNECT	<ul style="list-style-type: none"> • Points to the discrepancies among the countries when it comes to online services (useful for environmental governance) • Possibility to compare and contrast with the last two biannual assessments • The methodology of "Mystery shoppers" – individuals trained to inquire about the public service process (analogous to "snapshot survey") • Grid-presentation of top-level indicators: the visual aspect which allows for easier country-by-country comparison. • Points to the potential pitfalls of approaches that cluster countries • Pinpoints the major gaps and trends in the specific field which will be increasingly relevant for environmental governance
EU Justice Scoreboard 2017	<ul style="list-style-type: none"> • Minimum level of elaboration: useful for future comparisons • Transparent and well-explained data sources and methodology • Illuminates the Access to justice dimension
EU SDG Indicator Set	<ul style="list-style-type: none"> • Visual presentation of progress over time • Solid introductory section which outlines the methodological approach • Both holistic and compartmentalized approach: while the separate SDGs are worked out in detail, the overall findings are outlined in the introduction • Great overall relevance of the SDGs for EG – discerning the nuances is somewhat more difficult
The World Justice Project Rule of Law Index 2017-2018	<ul style="list-style-type: none"> • Relies on primary data and focuses on the multifaceted dimensions of the rule of law • Interactive online platform allowing to look at country-specific data • Offers a working definition of the rule of law, giving special attention to protecting public health and the environment
Flash Eurobarometer 2017 and Standard Eurobarometer 2017	<ul style="list-style-type: none"> • Attitudes of citizens towards' EU regional policy • Key trends elaborated in a separate document, with graphs looking at major developments over the years
Reporting frameworks under the Aarhus Convention	<ul style="list-style-type: none"> • Includes not only the governments, but also the non-governmental actors • Highly relevant for Transparency, Participation, and the Access to Justice dimension, given its nature

Framework Analysis	Relevant positive aspects
Digital Single Market Scoreboard by DG CONNECT	<ul style="list-style-type: none"> • Noticeable gap in digitization process between the top performing players and the lower performing countries: this can be of use in understanding potential pitfalls for environmental governance • Video format for the presentation of findings
UNITAR framework relating to Rio Principle 10	<ul style="list-style-type: none"> • Environmental governance issues broken down into policy areas, tailored across three dimensions (information, public participation and access to justice) • Information section broken down to relevant scenarios, including data on hazards/emissions, environmental quality (by sectors), and nature protection and biodiversity • Includes non-environmental groups (not confined to NGOs) in decision-making processes relevant for EG • Tailored to developing countries; would need adjustment for EU MSs
Bertelsmann Sustainability Governance Indicators	<ul style="list-style-type: none"> • Visual presentation: graph that allows identification of strengths and weaknesses • Manifold comparison possibilities, including comparing progress, with an OECD/EU filter • Mixed methods used • Six-stage peer review to diminish the bias of researchers
OECD Environmental Performance Reviews	<ul style="list-style-type: none"> • Conclusions and recommendations relevant for EGA • Each year, 2-3 draft reports on OECD countries (2018: Czech R. and Hungary) • Useful references
Environmental Liability Directive Study Reports	<ul style="list-style-type: none"> • Focus on operations that may cause environmental damage • Method to cover EU level (ELD) and domestic law of MSs • Template for an EU-wide information system (register) including details of cases and an IT tool to support the register
Aarhus Convention Indicators	<ul style="list-style-type: none"> • Substantive indicators on performance • Guidance notes relating to the practice indicators
European Public Administration Country Knowledge (EUPACK)	<ul style="list-style-type: none"> • Points to good practices with regard to public administration and governance • Substantial evidence base on the nature and diversity of public administrations in the Member States • Reference study for the preparation of this Environmental Governance Assessment project
Monitoring of progress under the EU Energy Union	<ul style="list-style-type: none"> • Focuses on issues of governance between the EU and the Member States levels, rather than governance within Member States (which can also be considered a limitation) • Interactive viewing and export tools related to the Energy Union indicators
European Quality of Government Index 2017	<ul style="list-style-type: none"> • Interactive maps, scorecards and spider-graphs allow benchmarking and comparison to EU average • Country-to-country and country-to-region comparison
IMPEL Review Initiative	<ul style="list-style-type: none"> • External peer review of structure of environmental authorities, targets capacity building • “Green” IRI focusing on nature conservation (Birds and Habitats Directives)
IMPEL 2015 Implementation Challenge Report and 2016 and 2017 Follow Up	<ul style="list-style-type: none"> • Questionnaire focusing on challenges of implementation of environmental <i>acquis</i> • Addresses cross-cutting, trans-boundary and trans-sectoral issues • Evidence base for policymakers (for instance, the 2017 Follow Up shows a lack of engagement with local authorities who

Framework Analysis	Relevant positive aspects
	have a critical role in environmental compliance assurance in many (but not all) countries)
“Towards an improved assessment of environmental compliance assurance”	<ul style="list-style-type: none"> • Recommendations relevant for EG: creating a solid baseline focusing on sector or country-specific challenges • Flexible assessment framework tailored to address different legal cultures and administrative set-ups in the MSs • Limited number of assessment criteria and questions (in order to have a balanced framework)
Outputs from Umbrella Cooperation Program between World Bank and DG REGIO	<ul style="list-style-type: none"> • Questionnaires submitted to private sector organizations • Entails qualitative analysis as well as quantitative • Focus on policy over regional institutions

These positive aspects were taken into account in the development of our assessment framework, and consideration of how we could categorise and present the results. Inevitably, not all could be fully integrated in our work, in some cases because the context of the analysis was different; and in the case of the presentation of results, we needed to develop an approach which was consistent with the exploratory nature of our categorisation and comparison across Member States. The final Literature Review, consisting of the assessment of relevant framework analyses, and an outline of findings from the Master Literature List, is attached to this Final Report as Annex 2.

2.3. Development of the assessment template

Following the initial development of the draft assessment framework described in section 2.1 above, and in parallel with its further refinement, the research team identified a range of questions which could be used to assess environmental governance characteristics and performance in the Member States. Questions were included based on a combination of relevance; perceived likelihood of identifying similar information in different Member States to enable comparison; and the likely comparability in practice of the resulting information (and thus the extent to which they could be used to generate information at an EU-wide level). A decision was taken, in discussion with the Commission services, that the initial draft of the governance assessments should be developed without relying on questions to, or interviews with, officials in the Member States. This was in order to avoid placing additional time demands on those officials, particularly in view of the fact that the assessment framework was at an early stage of development, and therefore subject to change. Moreover, it would have been difficult to identify individual Member State experts who would be able to cover the wide range of issues addressed in this study.

The questions fell into three broad categories:

- Questions which could generate objective yes/no answers, or other objectively categorised results;
- Questions which could be answered for all (or most) Member States on the basis of pre-existing data (for example, Eurostat surveys, existing reports for the Commission, including those identified in the analysis of frameworks referred to in 2.2 above, other international assessments);
- Questions which required a descriptive account and/or an exercise of judgement by the researcher.

A pragmatic combination of approaches was adopted, bearing in mind that the demanding timescale for the project meant that the template was being developed while the assessment framework was still being refined. Initial research, particularly in the pilot countries (as described below), identified the sorts of information readily available on environmental governance from public sources. Questions addressing and interrogating this information were developed, and allocated to the relevant themes emerging from the parallel work on the assessment framework. This was further completed through the use of the information emerging from the assessment frameworks referred to in section 2.2 above, which was similarly allocated to relevant themes.

We then considered the extent to which these questions, largely falling into the first two categories described above, could address the issues identified in the description of the themes in the draft assessment framework. Where there were gaps, we developed further questions, largely falling into the third category, to fill them. Thus, for example, more descriptive questions were included for themes such as “Access to justice” (3.3.2), and “Cross-sectoral coordination” (3.5.3).

The questions were incorporated into a template for the Member State governance assessments, which also included a section at the beginning of the assessment allowing for a description of general issues such as the institutional arrangements for environmental governance, the degree to which the arrangements were based on multi-level governance, and the role of civil society in general terms. This section addressed the cross-cutting theme of “Context and characteristics of environmental governance”.

A key challenge in this process was to identify information which could be answered in broadly comparable ways across the 28 Member States, notwithstanding differences in legal systems, governance culture, and governance structure (for example, degree of delegation to sub-national authorities). The challenge was not (and could not be) fully resolved; some issues which are of key importance for environmental governance are not easily comparable across 28 countries.

However, in order to test the extent to which the template could be completed in a coherent and comparable way across different Member States, the draft template was completed for three pilot Member States (Poland, Austria, and Belgium), chosen on the basis of ensuring a range of dates of accession to the EU, and differing degrees of multi-level governance (different approaches to regional responsibilities in Belgium and Austria, contrasted with a more national-level system in Poland, albeit with aspects of decentralisation). Pragmatic criteria, including the availability of the relevant languages within the core team, and a degree of overlap with the Member States for which the Commission was, in parallel, piloting the wider Environmental Implementation Review process, were also relevant.

The pilot assessments enabled a number of lessons to be drawn, including on the need for precise wording of the questions to ensure consistent interpretation (and for continued dialogue between the core team and researchers to resolve interpretation questions in a consistent way). Further work enabled the identification of additional or replacement questions to complete the analysis of the themes in each Member State (and, indeed, further minor amendments and additions to the template continued to be made following subsequent analysis of the first full drafts of the assessments). In addition, and following discussion with stakeholders in the first workshop (February 2018), and with the Commission services, a scenario approach was developed in order to test some of the themes in a more comparable way. Examples include: ensuring a consistent approach to choosing sample Environmental Impact Assessments; requiring researchers to look for similar information on air quality and water quality; and specific examples of types of cases to consider for testing how access to justice operates in practice. This approach was adopted to enable us to provide information on issues where a full analysis would effectively have required a separate research project for each theme.

2.4. Using the assessment framework (1): Preparing the Environmental Governance Assessments

Researchers responsible for each of the Member States were then tasked with completing the assessment template. Researchers were identified on the basis of expertise in respect of the Member State, particularly native speaker ability in one or (ideally) all official languages, where applicable. Where such expertise was available within our consortium under the relevant framework contract, we made use of it; in other cases, we contracted with other organisations or independent researchers. It should be noted that the range of issues covered by our definition of “environmental governance” and the dimensions and themes to be assessed was such that individual researchers could not be expected to have expertise in all of them; and the resources available for the project would not have made it practicable to engage a whole team of researchers for each Member State. However, given that in many cases the template aimed to identify publicly available information, and sometimes explicitly focused on how an individual member of the public would be able to access information or engage in procedures, this was not a major constraint.

The researchers were issued with the template, and a guidance document. An online discussion of both was held with the full Member State researcher team, in order to work through the template to identify points of uncertainty or ambiguity, and ensure (as far as possible) a consistent approach. This meeting was followed up with circulation of a list of the questions addressed, with the guidance provided in each case; and a further meeting halfway through the preparation of the environmental governance assessments. As noted above, a key decision taken, in discussion with the Commission, was that the first draft of the assessments should be developed without recourse to requests for information from, or interviews with, the relevant administrations in the Member States

An initial draft of the assessment for each Member State was submitted to the Commission and then the draft assessments were made available online to public authorities in the Member States, and to participants in the Second Stakeholder Workshop on 26-27 September 2018. Specific issues where researchers had experienced problems in identifying relevant information were addressed in questions flagged for the attention of the individual Member States. Written comments were requested from experts, to a timetable coordinated with the separate but linked consultation exercise of providing Member State comments in response to Commission drafts of the Environmental Implementation Review 2019.

Comments were received from most Member State environmental ministries; in some cases the comments also reflected an extensive effort to gather views from other parts of the Member State’s administration (either at sub-national level, or from other sectoral ministries). In the case of a few Member States, we also received comments from environmental NGOs or other stakeholders.

Comments from Member States and other stakeholders were then addressed by the country researchers in a final draft of the Environmental Governance Assessments. Where factual corrections were offered, these were validated and reflected in the assessments. Where disagreements with the assessments were expressed, or queries over the evidential basis, researchers were encouraged to revisit the assessment in the light of the observations made, and (where appropriate) revise the assessment, or provide additional information on the sources of information relied on. The information considered in preparation of the assessments is intended to include relevant material published before the end of June 2018 (and, in cases where we relied on cross-Member State information from previously published sources, may reflect an earlier status of performance). Where subsequent developments were brought to the researchers’ attention, however, and were particularly relevant to an understanding of the

Member State's evolving performance, they have been mentioned in the final versions of the assessments published as an Annex to this report, but not taken into account in the categorisation of Member State performance.

2.5. Using the assessment framework (2): Comparing and aggregating results

2.5.1. General issues in reading and interpreting the Environmental Governance Assessments

As noted above, and as indicated in the assessment framework at Annex 1, there is a significant degree of connectivity and overlap between the themes addressed by the governance assessment. Many of the questions were therefore capable of generating information which was of relevance to a number of different themes. For example:

Evidence under Transparency links to evidence under Access to Justice

There is a close link between the provision of information to the public, which was addressed by questions on **access to information** under the **Transparency** dimension, and questions under the **Access to Justice** dimension. In general, access to justice is easier to ensure when members of the public or public interest groups have full information at their disposal; and specifically we looked under Access to Justice at how effectively Member States communicated to the public on their legal rights (section 3.3.1 of the assessments).

Evidence under Public Participation links to evidence under Efficiency and Effectiveness

While the bulk of evidence relating to **public engagement in decision-making** are dealt with under the Public Participation dimension, under Efficiency and Effectiveness we also looked at responsibility to external feedback and mechanisms for engagement with civil society under "**Flexibility/Adaptability**" (section 3.5.5 of the assessments). Answers to these questions therefore need to be taken into account in developing a full understanding of the picture of civil society engagement in the relevant Member State.

Evidence under Compliance Assurance/Complaints Handling links to Access to Justice and Efficiency and Effectiveness

A number of sources of information are relevant to enabling public authorities to enforce environmental legislation and policy effectively; and the approach to how information from the public is used also has implications for aspects considered under Efficiency and Effectiveness. Thus the compliance assurance/complaints handling dimension looks at questions related to how complaints from the public are handled (section 3.4.2), which may be a first step in ensuring good access to environmental justice; and the efficiency and effectiveness of environmental administrations can be improved by making better use of citizen science, and more effective use of reporting of incidents from the general public (also section 3.4.2).

Given these and other links between dimensions and themes addressed in the assessments, it is important for readers of the assessments not to treat the information provided on individual issues as a full and complete account of each issue; important contextual information is provided by reading the full assessment.

Two broader issues in relation to the use of the assessments have emerged in our interaction with Member States, both in the stakeholder workshops, and through the process of Member States commenting on the draft Environmental Governance Assessments. These are on the one hand, the question of how far the governance assessments address issues which are relevant to implementation of EU environmental legislation and policy; and on the other hand, the linked question of the extent to which observations in the assessments should be interpreted as criticism.

On the question of whether the governance assessments address issues which **go beyond** what is covered in **European environmental legislation**: they do. While some of the questions address the implementation of governance aspects of EU legislation (for example, the way in which Environmental Impact Assessment requirements are implemented) others – for example, on the provision of public information on access to justice, or on the approach adopted to judicial review of public administration decisions – go beyond aspects of EU legislation. However, the purpose of the assessments is precisely to identify aspects of governance which have an impact on the implementation issues identified in the 2017 Environmental Implementation Review.

With respect to the linked question of whether observations in the assessments should be considered as a criticism, we have aimed to be as factual as possible in our approach, and ensure that our analysis is fully referenced. The approach developed to comparing and aggregating results, described in detail below in section 2.5.2, necessarily has normative implications. A key point to bear in mind, however, is that from the point of view of public administrations there is a trade-off. On the one hand, they could favour an approach which favours full openness, public access to the decision-making process, and public and environmental NGO challenge to government decisions. On the other hand, they could favour an approach which emphasises efficiency of government decision-making, and rapid implementation of what are viewed by their proponents as democratically adopted policies. Governments (almost invariably) see themselves as acting in good faith, and in the public interest. Therefore, even where they see value in principle to public challenge, they rarely see challenge in practice as a positive or even a justified step in relation to specific individual decisions.

Our working assumption, however, is that the Aarhus Convention's logic of encouraging public involvement and access to justice as a means of ensuring that the public interest in the environment is given a voice is fully valid; and that if it is implemented fully it will lead to better integration of environmental issues in decision-making, and more efficient and better quality decisions as a result. In theory it would be possible to adjust the balance too far, and provide such broad opportunities for public engagement and challenge that the efficiency and quality of government action was significantly impaired by the resulting delay and uncertainty; but this does not seem to be an immediate risk in any of the 28 Member States, on our assessment. While we aim to present information in a way which is as evidence-based and non-judgemental as possible, our approach to identifying patterns of environmental governance across the EU is based on the assumption that greater openness, and willingness to facilitate challenge, has clear benefits for improved environmental implementation and performance, and should therefore be encouraged.

A number of questions were included in the Environmental Governance Assessment which, while they were not directly relevant to environmental performance or environmental outcomes as such, were nevertheless considered relevant to developing a rounded view of environmental governance within each Member State. These included questions related to the inclusivity of environmental policy processes (for example, on the availability of environmental information in relevant minority languages, and the extent to which environmental information presented online was accessible for users with disabilities, both of which we considered relevant to

ensuring that a full range of the population was able to exercise their rights to engage in environmental decision-making); questions on gender balance among senior decision-makers, and in the judiciary; and data taken from Eurobarometer surveys on issues such as the level of public trust in institutions, and the perceived independence of the judiciary.

2.5.2. Developing a consistent approach to comparing and aggregating results

In order to help in identifying patterns of approaches to environmental governance, and to compare performance between Member States in broad terms, the project developed a system of categorisation of performance in relation to individual questions. The aim was to build up a picture of the broad performance for each Member State at the level of each dimension. The categorisation was based on assigning a simple numerical value to categories of performance in respect of individual questions.

A first stage in this process was to identify which questions had answers which were capable of being categorised in a way which would enable a simple numerical score to be applied. Questions fell broadly into four categories:

Those, usually derived from centrally available sources, which were **numerical in form**, and were comparable between Member States: examples include Eurobarometer data on public attitudes, or the percentage allocation of EU funding to environmental outcomes.

Those which had a **“Yes/No” answer**: examples include the question under theme 3.5.2 (Administrative Capacity) on the existence of dedicated environmental units in customs authorities. In many cases, a clear binary “Yes/No” answer was not always appropriate, which means that a number of these questions were assessed on a 3-point scale (Yes; yes with caveats; no).

Those where more **open and descriptive questions** nevertheless yielded answers which could be **categorised on a scale of performance**: examples include assessment of the legal standing for individuals or NGOs under theme 3.3.2 (Access to justice).

Those where the nature of the information was **contextual**, or where **consistent and comparable information could not be obtained**; examples of the former include information on corruption under question 3.3.5, and examples of the latter include information on the staffing levels in environmental administrations (where comparison between Member States would be complicated by issues including size of population, dispersal of responsibility among different Ministries, level of delegation of responsibility to regional and local levels, and so on).

The first three categories of question were refined, and clear criteria suggested for assessment. For each individual dimension, the assessment was carried out by the same members of the core research team, who considered and categorised all the Member State EGAs in relation to that dimension, on the basis of the draft assessments provided by the country experts. This approach was adopted to ensure that a consistent approach to each dimension was taken in the assessment of all Member States.

In discussion with the Commission services, and in the light of feedback from stakeholders at the second workshop (September 2018) on the relative importance of different themes in each dimension, a composite indicator of performance for each dimension was built up by applying different weights to each question assessed. These indicators have been used to illustrate patterns and categories of performance among Member States. We shared details of the

methodology with participants at the Third Stakeholder Workshop on 24 January 2019, and used an interactive exercise to seek views on the robustness of the criteria, and how they might be improved in further iterations of the governance assessment exercise.

The approach adopted shares some of the characteristics of multi-criteria analysis⁸, in that it aims to arrive at a robust overall assessment by building up a composite picture from individual elements. In this case, the elements used are the assessment of individual questions against the criteria we have identified. A number of caveats need to be borne in mind in using the categorisations that we have developed, and which are used to illustrate the analysis below of the five dimensions of environmental governance:

- This project represents an initial step in the development of an assessment framework. Further work is needed to ensure that the framework can be validated, and can ensure acceptance from Member States and other stakeholders.
- The criteria for categorisation in relation to each question were developed after (and in the light of) the main research to find information. Thus, the research carried out for the EGAs was targeted at answering the question itself, and not at supplying information enabling the detailed categorisation criteria to be applied. Member States and other stakeholders may have further information to provide which could change the categorisation choice made.
- For those Member States with heavily devolved or federal systems of environmental governance, categorisation is more challenging than for Member States with a relatively unitary system, and in some cases will be vulnerable to chance in terms of the selection of regional examples.
- The nature of the selection of questions for categorisation means that it focuses on aspects of governance where numerical or binary judgements can be applied, in a comparable way. Significant contextual information is therefore potentially excluded.

Overall, therefore, the categorisations should not be treated as a detailed report card for and judgement on each Member State. However, we are confident that they are a broadly reliable mechanism for identifying those dimensions for each Member State where performance in relation to the issues addressed by the assessment questions is not demonstrably strong, and where individual Member States might therefore wish to consider, and potentially learn from, or even adopt, good practices identified in other Member States.

The methodology is outlined in further detail, with a full set of the questions assessed and the criteria used, in Annex 5 to this report, which also provides detail on the categorisation of Member State performance in each dimension.

8 An approach to analysis and decision-making which builds up an overall picture from consideration of individual aspects (which could be, for example, feasibility, economic impacts, political acceptability, environmental impacts, social impacts). See the description in the European Commission's Better Regulation Toolbox, available at:
https://ec.europa.eu/info/sites/info/files/file_import/better-regulation-toolbox-63_en_0.pdf

3. FINDINGS OF THE ENVIRONMENTAL GOVERNANCE ASSESSMENTS

Findings in relation to the five dimensions of environmental governance are set out in sections 3.1 to 3.5 below. The text does not follow the order of the sections and questions in the Member State assessments published alongside this report, but indicates in each case which sections of the Member State assessments are referred to. We conclude each section with a list summarising key points identified as good practice in individual Member States.

This introductory section identifies key findings emerging from the assessment of the overall context and characteristics of environmental governance in each Member State. Particular issues emerged in terms of the multi-level governance arrangements relevant to environment policy, particularly in Member States with a federal structure; the approach taken to implementation responsibilities; and the role of civil society.

In examining overall environmental governance characteristics, the project was able to draw on outputs from the earlier Commission research project providing “Support for developing better country knowledge on public administration and institutional capacity building” (EU PACK)⁹. That project’s final report notes, on the issue of **multi-level governance**, that:

“The large majority of EU Member States now has two or three administrative tiers, while seven Member States have four administrative tiers, and Portugal five. The presence of more than three administrative tiers is generally observed in large Member States with Austria, Belgium and Portugal as exceptions.”

(It notes that there are specific reasons for the Belgian and Portuguese exceptions, notably the overlap of community – i.e. linguistic – and regional structures in Belgium, and the autonomous regions of the Azores and Madeira in Portugal). The table below shows the EU PACK study’s summary findings.

Table 3: Number of administrative tiers (all policy areas)

Countries with 2 administrative tiers	Countries with 3 administrative tiers	Countries with 4 administrative tiers	Countries with 5 administrative tiers
EE, IE, CY, LV, LT, LU, MT, SI, FI	BG, CZ, DK, EL, HR, HU, NL, RO, SK, SE, UK	BE ¹⁰ , DE, ES, FR, IT, AT, PL	PT

Source: EUPACK

However, the number of administrative tiers does not necessarily provide a good picture of the distribution of environmental policymaking, implementation, and enforcement responsibilities among those tiers. From our research, it is clear that those Member States with a high level of devolution of policy-making responsibility to the regional level – including Member States such as Germany, Spain, Italy and Austria with a large number of regions, as well as Member States with a more specific federal structure, such as Belgium and the United Kingdom – show a high level of devolution of both policy-making and implementation responsibilities to the regional level. Nearly all Member States also have a degree of implementation responsibility at local

⁹ See in particular Thijs, N et al. (2017), [A Comparative Overview of Public Administration Characteristics and Performance in EU28](#), report prepared for DG EMPL of the European Commission, p.12

¹⁰ Belgium also has district councils (5th tier) but only in the city of Antwerp

level, although the range of responsibilities devolved to local authorities, and the freedom they have to adopt their own approach, varies significantly.

This issue is further illustrated by the broad national approach to centralisation in Member States; as the EU PACK study notes, there is a broadly even split between centralised systems and decentralised.

Table 4: Centralised v decentralised implementation (all policy areas)

Centralised implementation	Decentralised implementation
BG, CZ*, EE, IE, HR, IT, CY, LU, HU, MT, PT, PL, RO, SI, SK, UK*	BE, CZ*, DK, DE, EL**, ES, FR, LV, LT, NL, AT, FI, SE, UK*

* *Mix of centralised and decentralised implementation.*

** *Partially decentralised, but heavily monitored from the central government.*

Source: EUPACK

On environmental issues, there is also a level of decentralised implementation for some issues (for example, the organisation of environmental services; local air quality plans) to local level, even in those Member States with a generally centralised approach. The EU PACK report suggests¹¹ that while legislative competence is for the most part an exclusive competence of the national level, issues such as funding, and in particular delivery, are more evenly distributed, with many levels of government being involved.

Table 5: Distribution of environmental competences between governance tiers

	Central	Regional	Local
Legislative	24	5	1
Regulatory enforcement	22	7	7
Funding	22	7	14
Delivery	20	18	21

Note: each Member State may feature in more than one column for each row, hence numbers do not sum to 28

Source: EUPACK

The division of responsibilities between a number of different administrative tiers responds to constitutional arrangements and other democratic imperatives which are outside the scope of this report. However, it is one of several factors which has the potential to make it more complex for ordinary citizens to identify who is responsible for which decision affecting their environment, and who they should address to respond to their concerns; other factors can include the dispersal of environmental policy responsibilities among a number of different ministries at national or regional level, or changes in the allocation of those responsibilities (as

¹¹ See graph 6 on p 14 of the report referred to in footnote 9 above.

has occurred in Member States such as Ireland, Spain and others). These risks to the link between citizens and decision-makers are all capable of being managed effectively, to ensure that the different levels of administration cooperate in their interactions with individual citizens. A greater commitment to providing citizens with a clear map of responsibilities, and ensuring that complaints or other communications from citizens are addressed in a coherent and coordinated manner, could be a valuable contribution to such an approach. Complex or changing structures of responsibility can also create challenges for coordination and cooperation between tiers of sectors within government, which, similarly, need to be explicitly addressed.

On the issue of the **size**, and other geographical characteristics of Member States (for example, island or landlocked Member States), it seems clear that the smallest Member States can face particular difficulties in implementation of EU legislation, and of wider good governance approaches. In our view, this is likely to be linked to the challenge of managing the full range of environmental issues (and of implementing the full range of EU legal requirements) with a smaller national administration. Larger Member States, particularly those with a high level of devolution of responsibility to regional level, can face the opposite challenge of a wide range of approaches being adopted to implementation, which potentially leads to difficulty for ordinary citizens in identifying relevant responsibilities and structures.

On the question of the role of **civil society organisations** in policymaking, there are a range of approaches. In general, Member States make clear a commitment to engaging with civil society organisations; but in practice, there is a range of levels of practical experience in administrations in creating such dialogue, and also a range of levels of capacity in civil society organisation for effective engagement. In general, the older Member States, including those acceding to the EU in 1995, have a deeper tradition of civil society membership and engagement – although this does not always mean that there is a deep level of trust between governments and NGOs, it means that there is a relatively settled understanding of the terms of their engagement.

Clearly, the choices made by Member States in terms of the distribution of environmental competences to different levels of administration are embedded in the constitutional and governance culture of each country. They will, in addition, be affected by geography (particularly population density, terrain), and the nature of the environmental challenges faced. There are therefore no “good” or “bad” system types in broad terms. However, there may be some scope for Member States to learn from each other in terms of their approach to coordination between different administrative levels; and in particular, how they ensure that the full range of government responsibilities is both visible to, and understood by, ordinary members of the public and stakeholder groups.

3.1. Transparency

Under the Transparency dimension, we examined the flow and quality of information in support of environmental policy.

All Member States make clear efforts towards active dissemination of environmental information; but the environmental issues concerned vary. Issues which may be of direct relevance to individuals, particularly air quality, tend to have more information provided; suggesting that transparency is regarded primarily as a means of communicating directly relevant information, rather than in encouraging greater public participation in decision-making. Responses to information requests from members of the public appear to be generally good, although with significant variation in the time allowed for responses, and with concerns in some Member States on the effectiveness of processes for challenging administrative decisions to refuse access.

3.1.1. Access to information

Ensuring that information is made available for use by a wide range of organisations, and by the public at large, is an important element in ensuring that environmental policy decisions, and environmental action more generally, are well-informed. The Member State assessments considered the implementation of the principle of public access to information; and checked for information under two standard scenarios, in order to provide information that was comparable across the Member States. The assessments also looked at the availability of information under INSPIRE (relying on information from other sources and a parallel project).

The extent to which **environmental data is actively made readily accessible to the public** varies considerably. Good quality information was easily available in all seven of the thematic areas studied by this assessment in Italy and Denmark, while Cyprus did not present data in most areas. The bulk of countries provided good access to data in most themes but had limitations under a couple of areas.

The active provision of information appears to some extent to reflect a judgement on what members of the public need to know. Where issues are technical and specialist, information can be hard to locate; but where information is directly relevant to individuals, including for health reasons, it is more likely to be readily available. Information on chemicals proved most difficult to locate, with six Member States¹² providing no data under this theme, and 12¹³ with limited data. Air quality information was most accessible, with all Member States reporting some data, and only Bulgaria and Malta having limited data. Nature information was unavailable in Cyprus, with only limited information available in six other Member States¹⁴. Water quality data was unavailable in Cyprus, while five other Member States¹⁵ provided only limited data. Industrial data was unavailable Austria and Greece, and limited in nine Member States¹⁶. Waste

12 BE, CY, HU, MT, PL, SK

13 CZ, EE, IE, EL, ES, FR, LT, LV, AT, PT, RO, UK

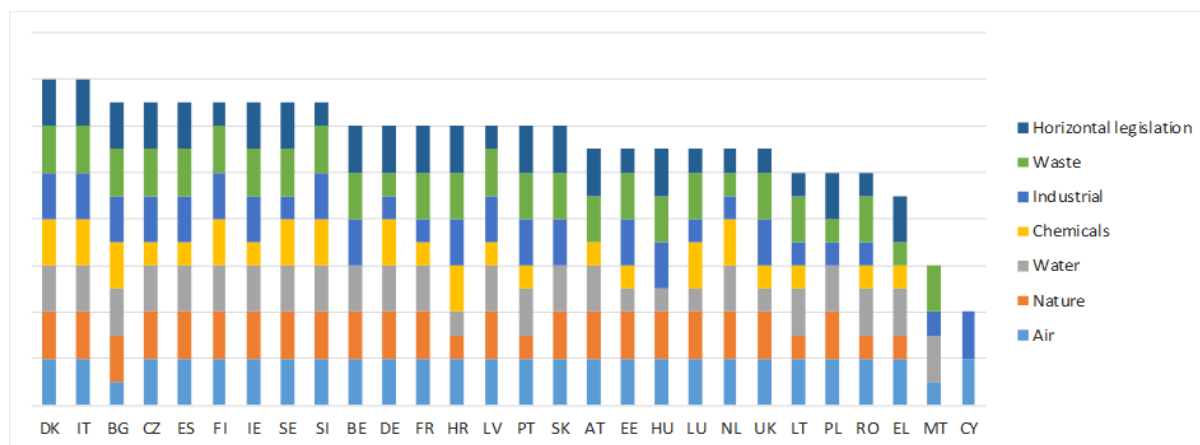
14 EL, HR, LT, MT, PT, RO

15 EE, HR, HU, LU, UK

16 DE, FR, LT, LU, MT, NL, PL, RO, SE

data was unavailable in Cyprus and limited in four Member States¹⁷. Horizontal information, including annual environmental reports, information on horizontal cooperation and environmental laws, was unavailable in Cyprus, and limited in nine other Member States¹⁸.

Figure 1: Extent of public accessibility to environmental data (per thematic area)



Twelve Member States maintain **public databases (or listings) with detailed information on projects requiring an Environmental Impact Assessment (EIA)**¹⁹. These databases (or listings) are often not fully searchable, but contain a reasonably complete list of national level projects, including links to relevant technical documentation. Some databases are more complete, user-friendly and searchable than others. A further 12 Member States²⁰ provide some centralised information online about projects requiring EIAs, but the information presents shortcomings in that it may be scattered between different websites or locations, substantially incomplete, not updated, only presenting current projects, not easily accessible, not accompanied by full documentation, or unreliable. A further four countries²¹ do not presently have any kind of centralised information on specific projects requiring an EIA, possibly due to the structure of the authorities responsible for EIAs. Luxembourg has indicated plans to create such a database.

17 DE, EL, NL, PL

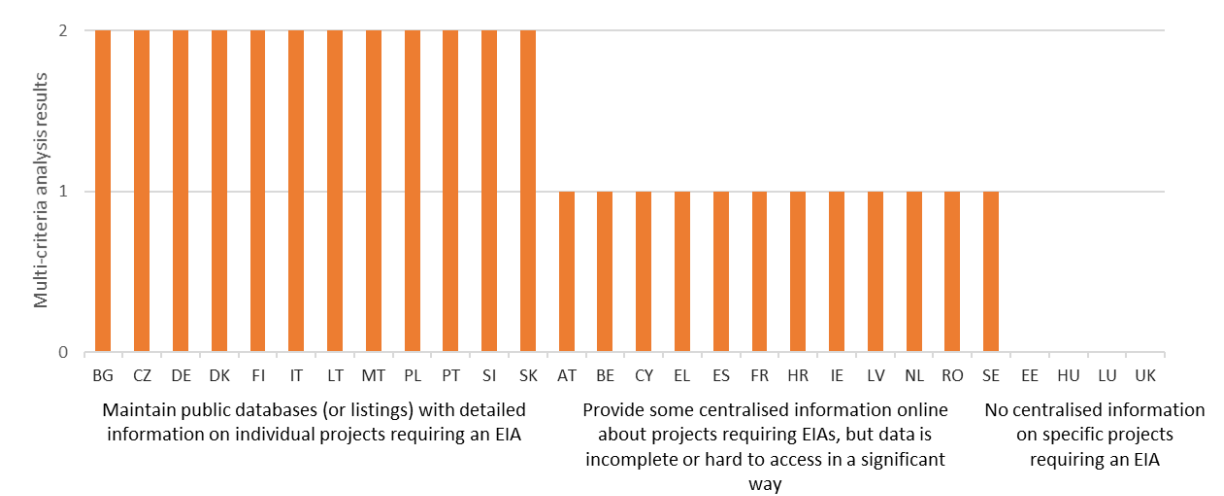
18 EE, LT, LU, LV, MT, NL, RO, SI, FI, UK

19 BG, CZ, DK, DE, IT, LT, MT, PL, PT, SI, SK, FI

20 BE, IE, EL, ES, FR, HR, CY, LV, NL, AT, RO, SE

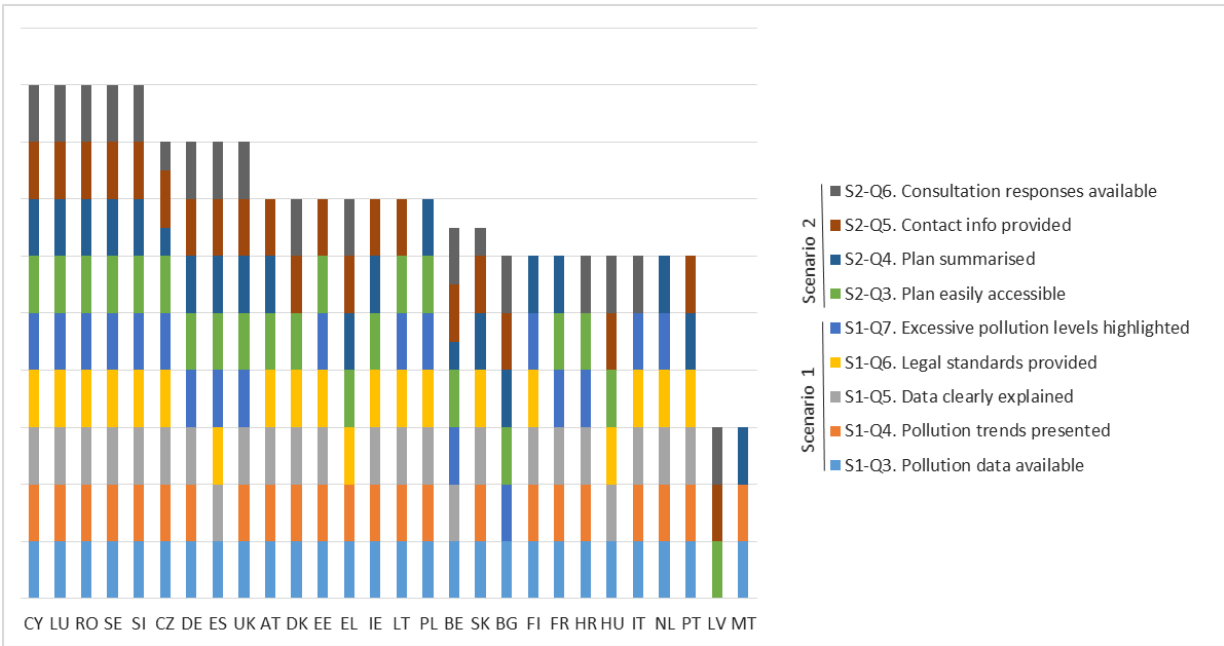
21 EE, LU, HU, UK

Figure 2: Availability of public databases for EIAs



The assessment examined two scenarios: scenario 1, assessing how the public might search for information on nitrogen oxides (NO_x) concentrations in the second most populous city of their country; and scenario 2, assessing how members of the public in the largest population centre in the Member State might find information on the River Basin Management Plan (RBMP) that is relevant to their area for the 2016-2021 period.

Figure 3: Scenario results: citizen access to data



Scenario questions assessed refer to numbered questions in Scenario 1 (air quality) and 2 (River Basin Management Plan) found in Section 3.1.2 Q.9 of the Member State Environmental Governance Assessments

Under Scenario 1, the assessment found that the vast majority of Member States had good data, updated daily, available to the public on NO_x, and that the information was clearly explained, usually including maps and graphs. Latvia and Malta did not have information available for the second largest city.

Regarding Scenario 2, RBMPs were found for all of the Member States with varying degrees of ease, but they did not all have summaries of key points of the plan, or a summary of responses to public consultation, with information on how these responses were taken into account in the plan. Eight Member States²² summarise the reports fully and concisely while also summarising stakeholder feedback and indicating how the responses were taken into account. Lithuania and Estonia did not present either a summary or a response to stakeholder comments. 11 Member States did not provide a response to stakeholder comments, but did provide a summary document²³.

In terms of **the status of data sharing without obstacles under the INSPIRE directive** in 2016, 15 countries²⁴ are considered to be ‘well advanced’, while 13 have ‘started’. 21 countries showed a positive trend in this regard, while seven had a neutral trend. Six countries were considered both ‘started’ and neutral²⁵.

3.1.2. Reliability/quality of information

We also looked at the quality of information available in the Member State, the sort of information relied on in environmental impact assessments, and mechanisms to ensure good quality information is available for environmental policymaking (such as independent scientific advisory bodies). Comparable information was difficult to find in this area.

We were not able to draw firm conclusions regarding the quality and independence of scientific advice; this would require more detailed, focused, and robust comparative primary research. The heterogeneity of scientific advice procedures and institutional structures makes it hard to compare without detailed investigation of institutional relationships, contracting methods, funding arrangements, intellectual property rights and other relevant factors. While the quality of scientific research and advice is generally regarded as high throughout the European Union, it should be noted that the independence and/or transparency of scientific advice and review used in policymaking was questioned by civil society in some Member States²⁶. In Ireland, it was noted that while the enforcement and implementation bodies have scientific expertise, the main ministries with environmental responsibilities do not have specific bodies providing them with independent scientific advice. In Greece, the reliability of information is limited by the fact that the available environmental data is often incomplete, limited, or outdated, which is partially due to the lack of appropriate infrastructure. Some assessments noted weak employment of evidence based policymaking²⁷.

The appointment of scientific oversight officers within government departments appears to be a useful tool for improving the quality and consistency of the use of scientific advice within government. Some governments employ independent bodies of scientists to advise on the state of the environment and offer policy advice for consideration by the government.

Guidance on the information public authorities rely on in developing impact assessments varies considerably. Most countries provide some form of template or good practice guidance, while some maintain legal standards outlining the format and basic requirements for impact assessments; but it is hard to generalise about what information is used in impact assessments

22 BG, EL, CY, LU, RO, SI, SE, UK

23 CZ, IE, ES, FR, MT, NL, AT, PL, PT, SK, FI

24 BE, DK, DE, ES, FR, LV, LT, LU, MT, NL, AT, PL, PT, SE, UK

25 CZ, IE, EL, HR, HU, RO

26 BE, DK, DE, LT, HU, PL

27 LT, LU, PT

without more detailed research. Some Member States do not seem to provide specific guidance on what to take into account in impact assessments. The Italian government has an independent agency which, among other things, provides technical advice to all levels of government in conducting impact assessments.

Regarding the timeliness and quality of data reported to the European Environment Information and Observation Network (EIONET) in 2016, the best performers were Belgium, Poland and the United Kingdom, with close to 100% scores. Finland, Germany, Slovenia, Portugal, and Latvia also had very good scores (>90%). Overall scores were good, with 18 Member States scoring equal to or above 80%, while only five scored at 60% or less. The lowest performers were Malta, Greece and Luxembourg.

Apart from the general legal framework, a more specific analysis on environmental information systems was also carried out in a parallel project²⁸. It had the objective of assessing the maturity of national portals serving active dissemination of environmental information in EU Member States. The project examined the publicly available main national environmental portals based on four areas, namely governance, content, sharing and usability.²⁹ Member States were grouped in terms of their approaches using 68 assessment questions and categorising them for each question as "good", "neutral" or "to be improved". Even though these findings are indicative, the overview provides a useful insight on national information systems' performance and complements the assessment of transparency in this study. Three Member States were categorised as good³⁰, 17 as neutral³¹ and 8 to improve³².

3.1.3. Access to Information Requests

Access to environmental information is a vital building block in enabling public involvement in environmental decision-making, and is guaranteed under EU legislation.

Access to environmental information for all citizens and groups is guaranteed in legal provisions in all Member States. Those requesting information do not need to demonstrate a particular reason for their requests. General access to information is often guaranteed in constitutions, and detailed in general access to information laws. Many countries supplement these requirements with specific laws on access to environmental information, which provide definitions of environmental information and give broader access than under the general laws. A couple of countries implement the Aarhus Convention directly into national law through verbatim translations³³. The study identified requirements for proactive dissemination of environmental information in most, but not all, Member States. However, the way in which such proactive dissemination is done varies considerably. A few countries³⁴ have an information commissioner to oversee and guarantee access to information and the provision of environmental information to the public, as well as consider appeals in the case of refusals.

28 Promotion of best practices for national environmental information systems and tools for data harvesting at EU level' (Contract No 07.0203/2017/761039/SER/ENV.E.4 of Directorate General for Environment)

29 For more information, visit the project website <http://www.eis-data.eu/>

30 IE, NL, SE

31 BE, BG, CZ, DK, EE, ES, FR, HR, IT, LV, LT, HU, MT, AT, RO, FI, UK

32 DE, EL, CY, LU, PL, PT, SI, SK

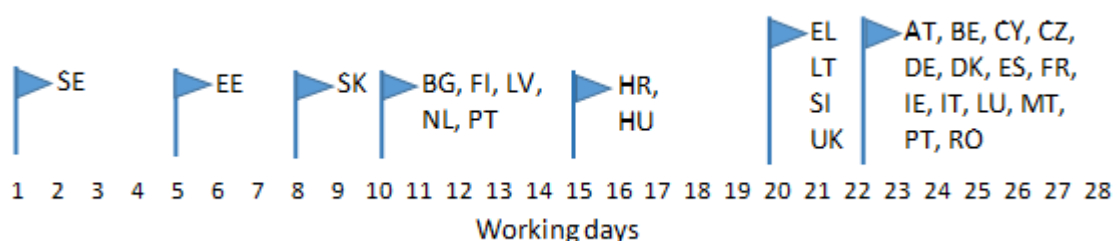
33 HU and SI

34 IE, HR, SI, UK

There is evidence that this helps to enhance public accountability with regard to access to information.

The **deadlines for provision of environmental information** range from five days in Estonia to 30 days or one month in many Member States. In Sweden no formal deadline is set, but following normal practice information should be given the same day the request is submitted, but a couple of days delay is tolerated. Slovakia's deadline is eight days. Portugal and Latvia also have basic deadlines of 10 days, with all other Member States being between 15 and 30 days. Extensions typically double the original deadline for complicated cases.

Figure 4: Legal deadlines for response to requests for environmental information



Detailed, comprehensive, quantitative information is generally not available on the number of access to environmental information requests, or the quality and timeliness of responses, although some studies have been conducted in certain Member States for particular time periods and government entities. Some countries noted a lack of resources as a reason for delays in responding to access to information requests.

The **cost charged for access to environmental information requests** is most often limited to the material costs of providing the information. However, charges are often applied to detailed scientific datasets. The study could not reach a comprehensive overview of the cost of all datasets in all Member States. Some Member States do apply minor charges for requests with large number of documents (Poland), or charges that should be "*reasonable*" (Ireland, Malta & UK), and published by the relevant authorities (UK), or not be "*prohibitive*" for requests that go beyond the "*simple*", with capped charges, such as in Germany. In such jurisdictions most requests are not costly, but civil society organisations have noted that even relatively modest charges may discourage requests that would incur a fee. In Hungary, authorities may charge a "fee covering the costs that arise in relation to the fulfilment of the data request," including labour costs, with no cap. Claimants must be informed of these costs in advance, but the costs can rise very high in extreme cases, and could be considered prohibitive.

3.1.4. Implementation evidence/reporting, including Environmental Information Systems

As a proxy for the gathering and reporting of environmental information, we looked at implementation of the INSPIRE directive on infrastructure for spatial information, and at national administration's use of data from the COPERNICUS Earth observation programme. (Detailed information on Member State reporting of environmental information has not been collected under this project; further refinement of indicators is planned in the context of the implementation of the INSPIRE Directive)

The percentage of the **share of spatial datasets falling under the INSPIRE directive which Member States made available for viewing online and download**³⁵, based on the country fiches published in 2016³⁶ (see **Figure 5** below), varied widely from close to 100% in Malta and the Netherlands, to almost none in Italy and Romania. Similarly, the **number of spatial data sets and the number of data sets available for download and for view on the INSPIRE Geoportal**³⁷ varied from a couple of dozen to tens of thousands, with the percentage available for download and view varying from almost none to close to 100%. Germany and France were notable for having a large number of datasets (>25,000), as well as a significant portion of these available for view (25% and 35%). Austria, Belgium, Cyprus, and Malta had much smaller numbers of datasets but high levels of accessibility (>70%).

The **level of maturity of Copernicus uptake**³⁸ also varies considerably across Member States. Uptake is generally higher in larger Member States, with France, Germany, and the United Kingdom performing best, and Italy and Poland following closely. Meanwhile, smaller countries generally have a lower uptake. Four countries were categorised as “in full swing”, 15 in “initial setup”, and nine in “active engagement” by the Copernicus User Uptake report.

35 European Commission (2016), INSPIRE in your Country, <http://inspire.ec.europa.eu/INSPIRE-in-your-Country>

36 To note, these country fiches will be updated after the May 2019 deadline for reporting.

37 European Commission, INSPIRE Geoportal, INSPIRE Data Sets, <http://inspire-geoportal.ec.europa.eu/overview.html?view=thematicEuOverview&theme=none>

38 European Commission (2016), Copernicus User Uptake - Engaging with public authorities, the private sector and civil society, report by SpaceTec Partners for DG GROW of the European Commission, http://copernicus.eu/sites/default/files/library/Copernicus_User_Uptake_Engaging_with_Users_0.pdf

Figure 5: Access to spatial high-value data that Member States have made available through view and download services on the INSPIRE Geoportal

	Available	Downloadable		Viewable online	
		Count	% of available	Count	% of available
France	35,865	1,428	4%	12,725	35%
Poland	31,577	51	0%	17	0%
Germany	26,642	5,731	22%	6,863	26%
United Kingdom	20,787	64	0%	270	1%
Italy	19,858	0	0%	385	2%
Portugal	1,136	65	6%	209	18%
Austria	737	565	77%	523	71%
Finland	598	32	5%	45	8%
Belgium	529	140	26%	388	73%
Sweden	266	14	5%	137	52%
Luxembourg	236	110	47%	164	69%
Slovakia	220	4	2%	11	5%
Spain	217	125	58%	145	67%
The Netherlands	197	73	37%	128	65%
Denmark	177	1	1%	6	3%
Malta	157	128	82%	151	96%
Czech Republic	151	15	10%	79	52%
Latvia	142	0	0%	4	3%
Croatia	122	2	2%	4	3%
Romania	113	4	4%	9	8%
Hungary	111	0	0%	1	1%
Slovenia	98	6	6%	8	8%
Estonia	73	12	16%	23	32%
Ireland	54	4	7%	0	0%
Lithuania	48	0	0%	5	10%
Cyprus	42	33	79%	40	95%
Bulgaria	29	0	0%	0	0%
Greece	28	0	0%	24	86%

Source: European Commission (2016), INSPIRE Geoportal: INSPIRE Data Sets - EU & EFTA Country overview, date accessed: 16.10.2018

These statistics are based on the INSPIRE monitoring indicators from the year 2016. However, they do not necessarily reflect the relevant implementation performance as regards spatial data which are particularly relevant for environmental implementation and reporting; and that in many Member States further progress has been made since this data was published. In the meantime, a list of environmental priority datasets has been developed and the Commission is about to adopt a revised Monitoring and Reporting Decision for the INSPIRE Directive which will refine the indicators and introduce one for these environmental priority datasets. These indicators will be published for the first time after the reporting round in 2020. Information on these datasets and the status of implementation in the Member States is available in the new thematic viewer³⁹ of the Joint Research Centre's INSPIRE Geoportal.

39 Inspire Geoportal, http://inspire-geoportal.ec.europa.eu/pdv_home.html

3.1.5. Good practice examples on transparency

This overview of good practices is a non-exhaustive list based on the individual country assessments. For more details and links to more background material for all these good practices, please refer to Annex 6.

A number of countries, including Malta, Slovakia, and Estonia have adopted the practice of having **all public websites following the same format** to allow for ease of navigation. Belgium and Slovakia both have good central points of information on the Aarhus Convention, and Ireland and Denmark were noted as having aspects of good practice in communicating environmental rights.

Bulgaria, the Czech Republic, Denmark, Germany, Finland, Italy, Lithuania, Portugal, Poland, Slovakia, and Slovenia provide **comprehensive EIA databases or listings**.

In Belgium, individual agencies provide good information on **how to file complaints on the public administration itself**.

There is a **high rate of positive response to requests for access to environmental information** in Bulgaria. A review of 2017 data on requests submitted to the Ministry of Environment and Water (MoEW) for access to environmental information demonstrates that only 1.5% of the requests were rejected. Statistical information on such requests and the way they were handled by the administration are made publicly available in 6-month reports for all regional and specialised structures of the MoEW.

A **specialised agency whose mission it is to provide the public administration and the public with information** on the environment and support decision making processes, including through a public online helpdesk is available in the Czech Republic.

An **Information Commissioner** in each of Croatia, Slovenia, Ireland and the United Kingdom acts as an independent compliance monitoring mechanism that checks and reports on transparency of governance and compliance with the transparency rules, and may handle second-instance appeal in citizen complaints against governmental infringement of the right of access to information, informs citizens of their rights, proposes legislation and conducts capacity building actions for improving access to information procedures of public authorities.

The **Environmental Key Indicator System (KIS)** is a useful instrument recording the status of environmental policy and environmental outcomes in Germany.

Both the German Advisory Council on the Environment and the Expert Commission on the Energy of the Future Monitoring Process are good practice examples for independent expert **institutions accompanying important policy processes** and pointing to (potential) gaps and giving recommendations in how to bridge these gaps.

The **use of geographical information systems** in Estonia is very well developed, and most data is very easy to find. GIS databases and e-services are available through Land Board "Geo portal". The Netherlands has a "Portal Atlas Living Environment" digital service making information with respect to environment and health available for the public in the form of searchable maps. Further examples can be found in the

The **centralised webpage and map application of the Estonian Environmental Register (EER)** provides up to date, validated and verified data and GIS based information regarding natural resources, natural heritage, the status of the environment and environmental factors.

The website of the Estonian Ministry of Agriculture, Fishing, Food and the Environment provides access to a single-entry database providing **information regarding proposals for**

support and subsidies, both at state level and at the level of the autonomous communities, for agricultural, environmental and fishing topics.

In Finland, the online services of the Ministry of the Environment, the Finnish Environment Institute, the Centres for Economic Development, Transport and the Environment (ELY Centres) and the Regional State Administrative Agencies have been **merged into a joint website, representing Finland's environmental administrations**. The goal of this merger is to improve communication with the public through the creation of an interactive online service. It covers issues related to Finland's environmental administration, its tasks and the objectives of its operations. These authorities also run their own websites.

The Croatian Government started wide use of **social networks** in communicating with citizens in 2012. According to online research study Twiplomacy the Croatian Government is among the most communicative, relative to country size and influence, constantly in the top 20 in terms of daily tweets and responses.

The government of Luxembourg has started to develop **mobile apps on a range of issues to support public access to information**. This includes a mobile version of the *guichet* (or one-stop-shop) page, and specific apps for waste management and for air quality.

The United Kingdom provides clear, well-structured, and easily understandable **information for businesses and individuals on how to comply with their environmental obligations**.

The **appointment of a Chief Scientific Adviser** in the main Government Departments in the United Kingdom appears to create good conditions for consistent and effective use of scientific and other evidence in policymaking.

3.1.6. Overall results on the transparency questions for which we categorised performance

An overview of the categorisation of performance is shown in Figure 6. Further information on the criteria, and more detail on how they were applied, is provided in Annex 5. As mentioned earlier, these overviews allow for a quick and synthesised access to the results of the study but should be treated with caution given the methodological particularities and existing data constraints.

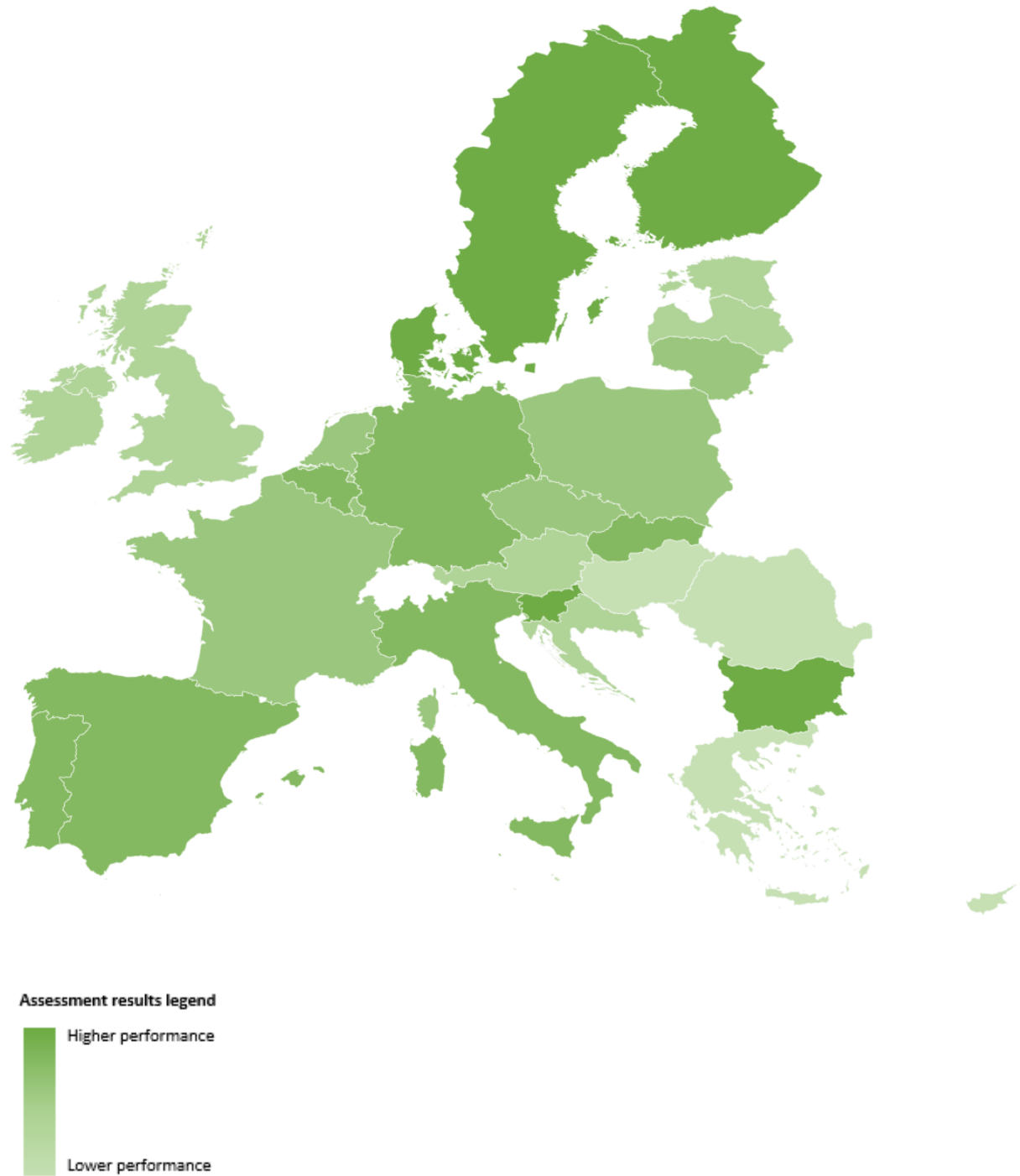
Denmark, Slovenia, Finland, Sweden, Bulgaria, and Germany have the highest overall performance in the transparency issues covered by the questions we categorised. These countries have generally good frameworks and infrastructure for providing environmental information and data to the public in a proactive way. Denmark was assessed as performing particularly well, primarily due to comprehensive and proactive provision of environmental data, including on EIAs, and low costs for information requests.

Hungary and Cyprus, by contrast, scored less well: Hungary in relation to issues such as the public availability of databases for EIA processes, and its approach to charging for access to environmental information; while Cyprus scored poorly on a broad range of criteria, suggesting a general problem with availability of information – although it should be noted that their assessment did not have the benefit of detailed Member State comments.

These results can be compared with the findings of a parallel project on national environment information systems⁴⁰. There, Ireland, the Netherlands and Sweden ended up on top but the

40 [‘Promotion of best practices for national environmental information systems and tools for data harvesting at EU level’](#) (Contract No 07.0203/2017/761039/SER/ENV.E.4 of European Commission, Directorate General for Environment)

Figure 6: Overview of performance categorisation on Transparency



3.2. Participation

Wide participation in decision-making, including by a broad range of stakeholders, members of the public, and civil society groups, can contribute significantly to ensuring that policy decisions take into account a full range of facts, and that decisions have a broad base of support. We looked in particular at how Member States enabled public participation, and at related questions such as: public confidence in institutions; individuals' sense of their ability to influence environmental outcomes; and equitability and inclusiveness of environmental policymaking.

There is some evidence of correlation between efforts at Member State level to encourage public participation, and the level of confidence among members of the public in both their ability to influence environmental outcomes, and in national governments. Perhaps the most striking aspect of the findings is that in nearly all Member States, there is little data available on the level of public participation in practice. In some cases, there is evidence of declining or low levels of participation in environmental impact assessment procedures. There is also a tendency for public participation to focus on locally relevant issues or proposals, rather than on broader questions of environmental policy.

3.2.1. Public participation

Our questions on public participation focused on how Member States implemented EU legislation on public participation in decisions on plans and programmes; what additional action Member States took to encourage public participation; and information on the extent to which the public in practice is involved in decision-making.

Participation in decisions about projects, plans and programmes

Member States are required to transpose EU legislation requiring public participation in decisions about projects, plans and programmes into their domestic laws. The approaches taken are quite different and depend on the respective governance system.

One important determining factor in defining the approach taken to regulate public participation is the **division of legislative competences between different levels** – national, regional or local. For example, in Belgium, the competence to regulate participation is mainly regional, but can also be federal for plans and programmes that fall within federal competence. In contrast, public participation is regulated at national level for example in France, Sweden and Slovenia.

Whether **public participation is embedded in horizontal or sectoral legislation** also differs between Member States. Luxembourg, for instance, has integrated provision in a specific law covering access to information and public participation, but also in various pieces of sectoral legislation, e.g. for waste and air quality management. In contrast, the French Environmental Code regulates public participation in the development of projects, plans and programmes. Similarly, Spain has enacted horizontal legislation on access to information and participation in decision-making procedures.

Many Member States have **specific legislation for environmental impact assessment and strategic environment assessment** that also lay down the rules for public participation in these processes, in order to implement the relevant EU legislation.

Participation in the development of policies, strategies and laws

In addition to these legal requirements, most Member States facilitate **public participation in the development of policies, strategies and laws** to some extent. The mechanisms that we identified as being employed to enable public participation include, among others, informal mechanisms and technical solutions.

Table 6: Member States facilitating public engagement in environmental policymaking

Yes	To some extent	No
BE, DK, DE, EE, IE, EL, FR, HR, LV, NL, AT, SE	BG, ES, IT, CY, LT, LU, HU, PL, PT, SI, SK, FI, UK	CZ, MT, RO

Some Member States have set up **institutions or platforms** to facilitate and structure participation of stakeholders and the public. In the Brussels-Capital Region, the ‘Environmental Council’ represents the civil society in law development by issuing opinions on environmental matters – either at its own initiative or upon request by the government. Denmark has a Special Committee for the Environment that is open to participation by organisations interested in environmental matters, and which is consulted on Danish positions on EU negotiations. Similarly, Croatia has established the Council for Environmental Protection and Sustainable Development as a permanent advisory body to consult stakeholders on environmental policies.

To simplify participation, various Member States have set up **websites** that provide general information about participation or the relevant documents for ongoing processes. The Department of Environment of the Cypriot Ministry of Agriculture, Rural Development and Environment invites the public to provide comments via its website. In Malta, the Environment and Resources Authority maintains a website with two subsections, one for public consultations for permits and one for public consultations for plans and programmes. As a last example, Estonia has set up a web portal to facilitate the consultation of important policy documents.

Some Member States use **citizen dialogues** to facilitate participation and enhance acceptance. Germany has implemented such dialogues for various important policies in the last years including the Climate Action Plan 2050 and the Resource Efficiency Programme II. In Denmark, the Ministry of Environment and Food invites stakeholders to informal brainstorming meetings and workshops when establishing policies and strategies.

Table 7 below presents a grouping of the most frequently employed tools and mechanism to facilitate participation. The information does not necessarily encompass all the available mechanisms in the Member States and relies primarily on the information communicated in the governance assessments.

Table 7: Common tools and mechanisms to support public participation in consultations

Tools and mechanisms	Member States
Portals for policies, strategies and legislation consultation	BE, BG, DK, EL, EE, IT, CY, LV, NL, PT, SK
E-consultations and social networks	BG, DK, EE, EL, FR, HR, IT, ES, NL
Consultation bodies (councils/commissions/committees, panels)	BE, BG, DK, EL, ES, HR, LT
Citizen dialogues, public brainstorming meetings, partnering events, citizens panels, stakeholders forums	DK, DE, EE, IE, FR
Guidance and brochures, standards for participation	BE, EL, FR, HR, SI, AT
Training and workshops to promote and ensure participation	BE, DK, PL, FI

A number of the Member State governance assessments identified the availability of specific platforms dedicated to consultations on EIA and permitting. However, we did not ask about the existence of EIA platforms as part of the assessment framework; so while such platforms have been identified in a number of Member States, it is possible that others have also introduced this sort of mechanism.

Table 8: Consultation platforms and EIA databases

Types of EIA platform identified	Member States
Specific consultations platform/portals on EIA and permitting	BG, EL, LV, LU, MT
Complete, easy to find and use, publicly available EIA databases	BG, CZ, DK, DE, IT, LT, MT, PL, PT, SI, SK, FI

It is interesting to note that out of the 12 Member States who are considered to have complete, easy to find, publicly available EIA databases only two, reportedly, have dedicated EIA and permitting consultation platforms. It seems that the Member States who invested in developing and maintaining good EIA databases did not consider it sufficiently relevant to set up also dedicated portals for the relevant consultations.

Information about participation in practice

Across all Member States, there is little information available about the extent to which the public participates in practice.

There is no Member State for whom substantive **quantitative information** covering public participation in decision-making is available. For Bulgaria, information on participation in law making could be identified (although suggesting disappointingly low levels of engagement); between zero and four written comments were submitted per law in the period from 2016-2017, with the amendment of the Law on Biodiversity receiving eight written comments.

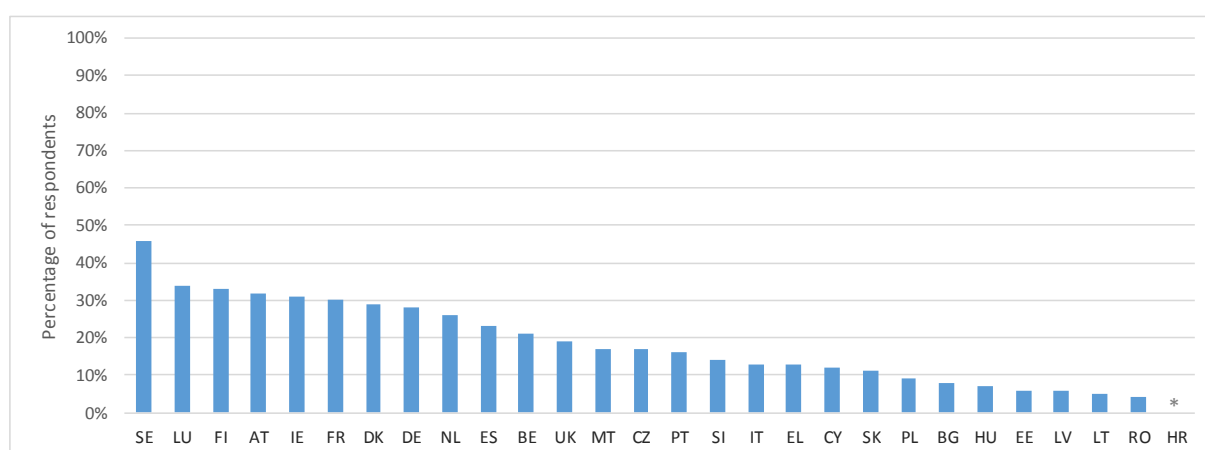
For some Member States, **qualitative information** could be identified. It seems that the public is not particularly interested in participating in strategic environment assessments, while the interest in environmental impact assessments is higher where the potential impact of specific projects on livelihoods or conditions of life in affected communities is more direct. For France, a report from 2015 highlighted a lack of public interest in formal consultation processes, and insufficient public participation in the development of plans and programmes. The explanation given by the researchers in the governance assessments, in some cases on the basis of comments from environmental NGOs or other stakeholders, was that public consultations are too technical, and often do not offer the possibility of proposing an alternative to projects.

Anecdotal information on participation could be found for several Member States. The 2017 Aarhus Convention National Implementation Report of Belgium describes a low mobilisation rate of the public during public consultations at federal level linking it to the manner the consultations are publicised among citizens. Estonia reported via its 2017 Aarhus Convention NIR that involvement of the public and interested parties has improved.

Attitude towards non-governmental organisations

Data from the latest 2013 Flash Eurobarometer “Europeans’ Engagement in Participatory Democracy”⁴¹ report was used to provide contextual information on citizens’ attitudes towards non-governmental organisations.

Figure 7: Level of NGO membership by Member State



* no data

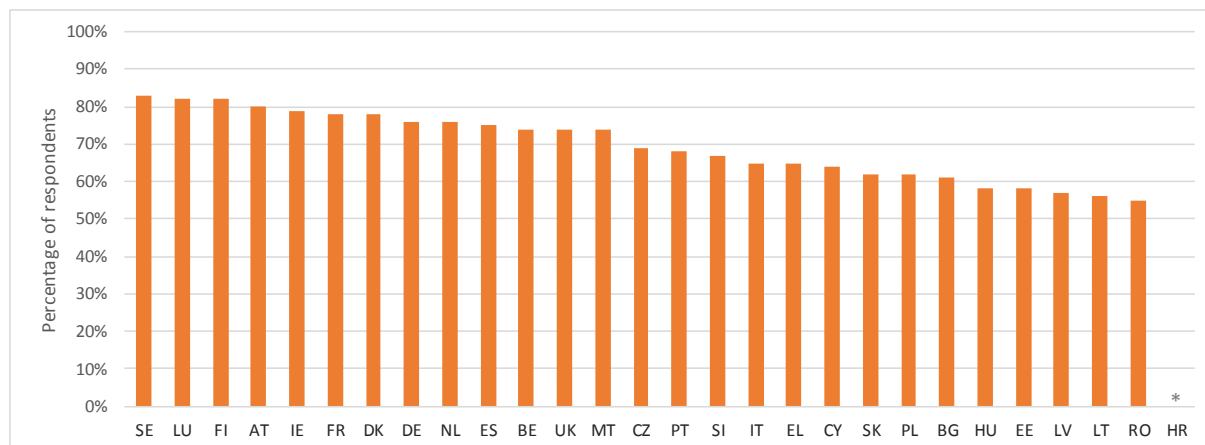
Source: European Commission (2013), Flash Eurobarometer 373, Europeans’ Engagement in Participatory Democracy, p. 33

The **percentage of citizens who report being members in non-governmental organisations** varies widely, from 46% of respondents in Sweden reporting themselves to be members of an organisation with a specific economic, social, environmental, cultural or sporting interest, to only 4% of respondents in Romania. However, it should be noted that the data are likely to be significantly affected by differences between Member States in the organisation of sporting activities.

41 European Commission (2013), Flash Eurobarometer 373, Europeans’ Engagement in Participatory Democracy, available at: http://ec.europa.eu/commfrontoffice/publicopinion/archives/flash_arch_374_361_en.htm

The majority of people in all Member States think that **NGOs can influence decision-making** at national level, although, citizens of some Member States are more positive than of others. In Denmark 83% think NGOs can influence decision-making, but only 55% agree in Czech Republic.

Figure 8: Belief that NGOs can influence decision-making at national level

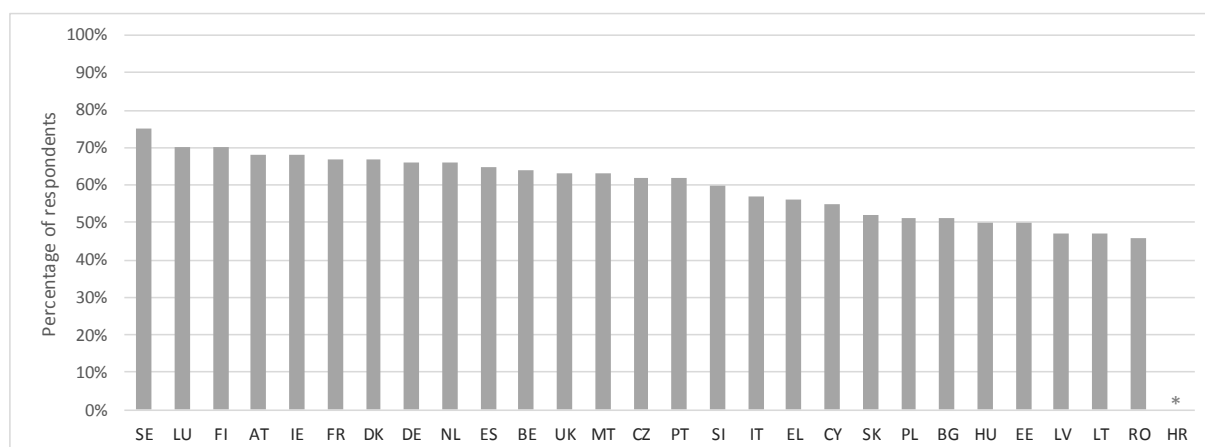


* no data

Source: European Commission (2013), Flash Eurobarometer 373, *Europeans' Engagement in Participatory Democracy*, p. 13

In most Member States, 50% or more of the respondents feel that they **share the values or interests of non-governmental organisations**. Most positive were the respondents in the Netherlands with 75%. There were only three Member States – Czech Republic, Estonia and Spain – where less than 50% of the respondents feel they share the values or interests of non-governmental organisations.

Figure 9: Agreement that NGOs share respondents' interests and have their trust



* no data

Source: European Commission (2013), Flash Eurobarometer 373, *Europeans' Engagement in Participatory Democracy*, p. 9

Perception that individuals can play a role in environmental protection

To assess whether citizens think they can play a role in protecting the environment, we looked at data from the 2017 Eurobarometer report “Attitude of European citizens towards the environment”⁴².

In all Member States, a **majority of citizens agree that individuals can play a role** in protecting the environment, although the proportion ranging from 73% agreement in Bulgaria to 97% agreement in the Netherlands. There are only four Member States, where agreement with the statement was below 80%; all of them having joined the EU in 2004 or later⁴³. In eight Member States⁴⁴ more than 90% agreed that individuals can play a role in environmental protection.

The data provided also shows **changes in the perception of respondents in comparison to 2014**. The agreement rate has dropped most in Bulgaria (down 8%) and Romania (down 4%). Increases in the agreement rate are most significant in Finland with 9%, Luxembourg with 7%, Hungary and the United Kingdom with 6%, and in Croatia, France and Poland with 5%.

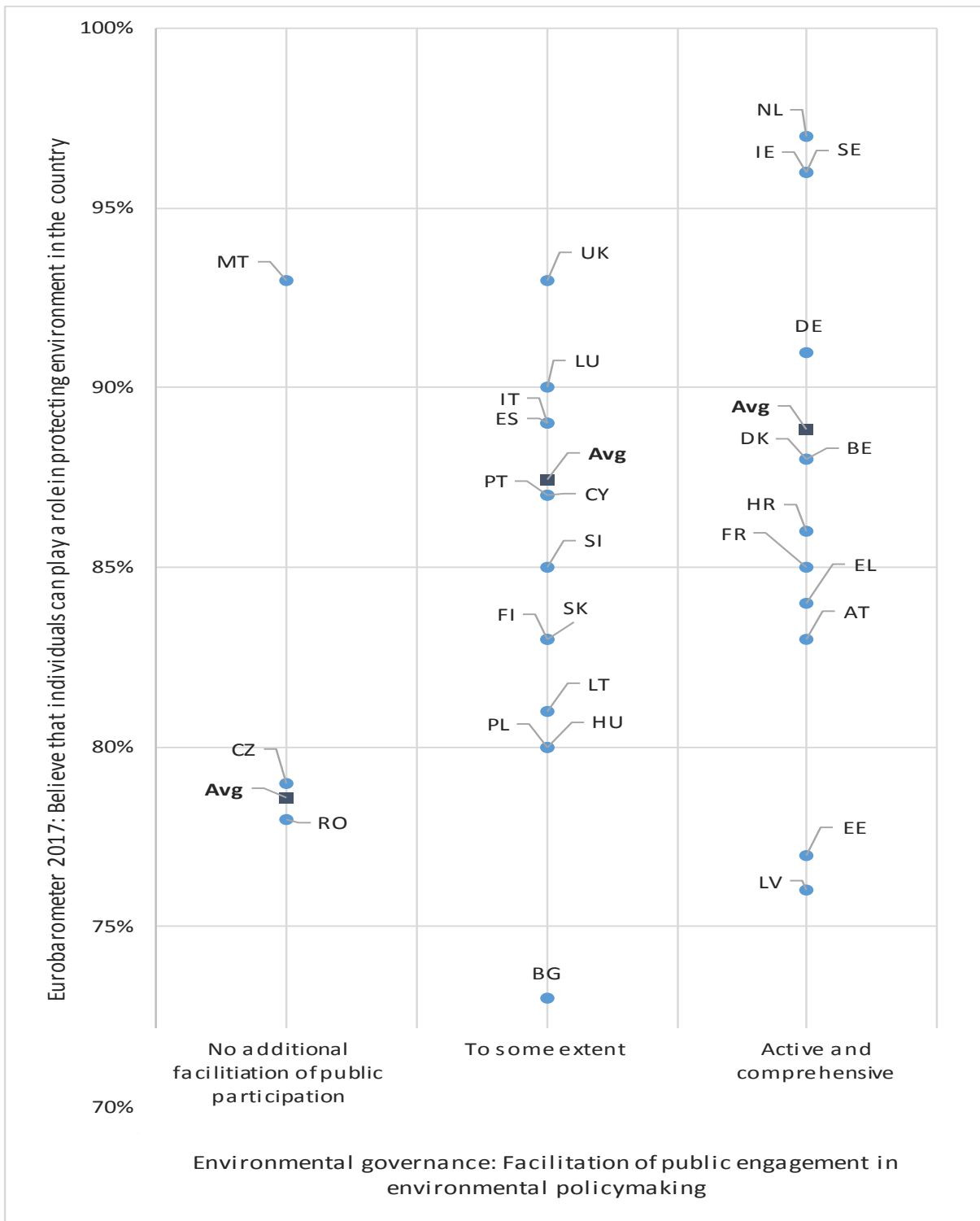
There appears to be a degree of correlation between these Eurobarometer results, and the Member State’s approach to facilitating public participation (based on our categorisation of Member State approaches to facilitation of public engagement). Figure 10 below plots the Eurobarometer figures against our 3 categories of performance, and also plots a population-weighted average for each category, showing on average higher levels of belief in being able to play a role in those Member States which have made greater efforts to encourage participation.

42 European Commission (2017), Eurobarometer 2017, Attitudes of European citizens towards the environment,
<http://ec.europa.eu/commfrontoffice/publicopinion/index.cfm/Survey/getSurveyDetail/instruments/SPECIAL/surveyKy/2156>.

43 BG, EE, LV, RO

44 CZ, DE, IE, LU, MT, NL, SE, UK

Figure 10: Public belief in individual effectiveness; facilitation of public engagement in environmental policymaking



Note: “Avg” indicates the population-weighted average of Member States in each category

3.2.2. Public participation in planning and permitting processes

European legislation on Environmental Impact Assessment and Strategic Environmental Assessment provides for public participation in those processes. We looked at whether there was evidence on the level of public participation in practice; and used a standard scenario to compare public participation in individual examples of Environmental Impact Assessment.

Level of participation in environmental impact or strategic environment assessment

Quantitative information on the level of participation in environmental impact or strategic environment assessments was difficult to identify in nearly all Member States. The information identified in some Member States gives an indication, rather than a full picture off the participation rates.

For some Member States, it can be said that the **level of participation is low** – either as it has been traditionally low or as it decreased in recent years. In Greece, participation is low, based on a random check of procedures. Also for Hungary, based on a small sample of procedures, the participation of the public tends to be limited. In Slovakia, the level of participation has traditionally not been very high. However, the participation rate is apparently higher in cases where the project or plan in question may have a direct effect on people's daily lives.

In all Member States, we looked at **participation in an example of an Environmental Impact Assessment linked to a recent TEN-T project** as a test sample to provide some comparable data. Usually, information about the number of written responses to consultations and about the attendance in public meetings could be identified. To give an example, for France, the planning of Highway A 480 crossing the city of Grenoble was chosen. Here, 138 emails were received, 55 contributions were made at public meetings, and 40 contributions were made via the consultation registrars. However, in Member States such as Bulgaria and Cyprus, no information indicating the level of participation could be found for the selected TEN-T project.

Apart from the level of participation, the assessment also included an evaluation **of how input received from the public about the planned TEN-T project** was taken into account by the competent authorities. Information on the impact of the participation outcome on decision-making was usually hard to find. One positive example is the development of the Fehrman Belt crossing in Germany. While the final decision is still pending, objections of concerned persons and the outcome of the environmental impact assessment have influenced the planning process. Another positive example is the planning of the Storstrøm Bridge in Denmark. Here, a detailed follow-up report was produced in response to the public concerns regarding noise during construction and the impact on the river, and the concerns expressed have led to some detailed changes in the plan.

3.2.3. Public confidence in institutions

The level of public confidence in institutions is likely to be linked to public participation (for example, if a high percentage of the public trusts decision-making institutions, they may feel that their participation in decision-making will have a real influence on outcomes; conversely low levels of trust may be linked to a perceived lack of personal agency). While information directly linked to environmental governance issues was not generally available, a number of broader surveys and reports provided contextual information. We looked at data from Eurostat and a thinktank survey of environmental governance on issues such as public confidence in institutions, and in the independence of the judiciary, as well as on the Member State's executive capacity.

Level of public confidence in institutions

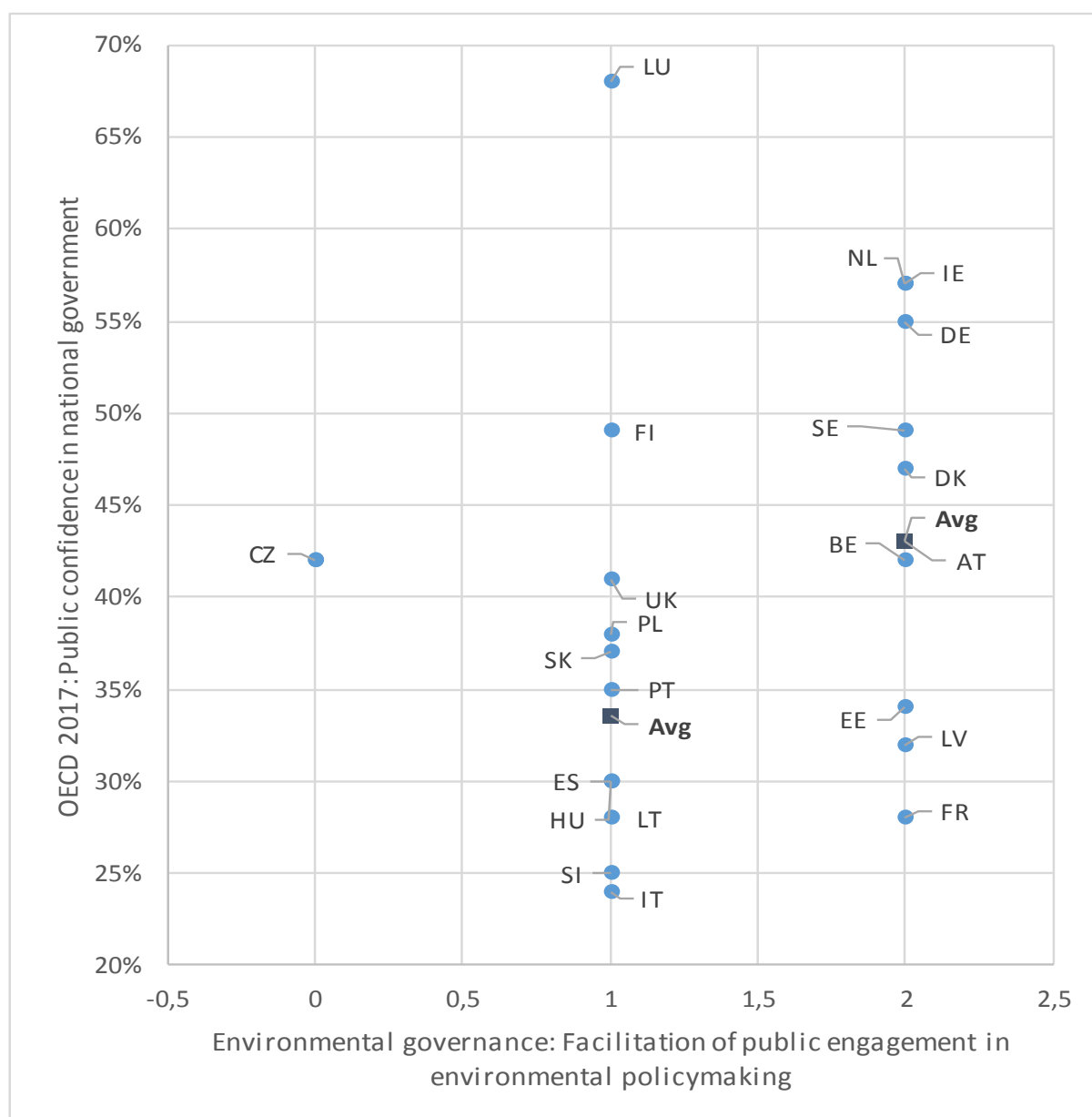
To assess the level of public confidence in public institutions, information on **confidence in the national government, the police and the judicial system** gathered by the OECD in its publication “Government at a Glance 2017”⁴⁵ was used. The information shows that trust in the police is usually the highest with the judicial system coming second and the national government usually being trusted the least. One exception is Denmark where 82% trust in the judicial system compared to 79% who trust in the police. Another exception is Italy, where the same percentage (24%) trust the national government and the judicial system, respectively.

Across the Member States, trust in the **national governments** ranges from 13% in Greece and to 57% in Ireland and the Netherlands and 68% in Luxembourg. In most Member States between 30 and 49% of the respondents trusted the national governments. Trust in the **police** ranges from 66% in Poland and 69% in Greece to 87% in Luxembourg and 88% in Finland. In most Member States between 70 and 79% trust in the police. Regarding the **judicial system**, a range from 24% in Italy and 28% in Slovenia to 75% in Finland and 82% in Denmark expressed their trust. Between these extremes, in three Member States trust expressed was between 30 and 39% and each in four in the range between 40 and 49%, 50 and 59%, 60 and 69%, and 70 and 79%.

As with the level of belief that individuals can play a role in environmental protection (see Figure 9 above), there is some evidence of correlation between trust in national governments, and performance on facilitation of public participation in policymaking, as shown by the population-weighted averages for each category of performance in Figure 11 below. While it is not possible to demonstrate a causation link, it seems plausible that increased government effort in facilitating public engagement is rewarded to some extent by greater confidence in governmental decision-making. We recommend assessing future development of this indicator against evidence relating to Member State efforts to improve public participation, in order to establish with greater certainty if there is a link.

45 OECD (2017), Government at a Glance 2017, <http://www.oecd.org/gov/government-at-a-glance-22214399.htm>.

Figure 11: Public confidence in national governments; facilitation of public engagement in environmental policymaking



Note: "Avg" indicates the population-weighted average of Member States in each category

Executive capacity and accountability

The "2017 Bertelsmann Sustainable Governance Index"⁴⁶ provides information on the **executive capacity to act and the possibility to hold the executive accountable for its actions**. Each Member State received scores from 1 (worst) to 10 (best). Regarding both, executive capacity and executive accountability, Denmark (8.4 and 8.3), Finland (8.3 and 8.2) and Sweden (8.4 and 8.4) got the best scores. At the bottom of the list are Hungary (5.0 and 4.8), Croatia (4.4 and 5.1), Romania (4.3 and 5.0) and Cyprus (4.0 and 4.9).

46 Bertelsmann Stiftung (2017), Sustainable Governance Indicators, executive capacity and executive accountability, <http://www.sgi-network.org/2017/Governance>.

Perceived independence of courts and judges

A Eurobarometer survey conducted for the European Commission in January 2018 covered the **perceived independence of courts and judges**. The results of the survey show wide variance between Member States with only 23% of the respondents perceiving courts and judges as independent in Croatia in comparison with 87% of the respondents in Denmark. However, in seventeen Member States a majority of the respondents perceived courts and judges as independent.

3.2.4. Equitability and inclusiveness

Ensuring that a broad range of society is represented in institutions, or can get involved in decision-making, can help to maximise public participation, and ensure that decisions reflect a full range of perspectives. We looked at available evidence on gender balance in environmental administrations and in the judiciary; assessed whether the information provided by environmental administrations was accessible to users with disabilities; and looked into whether information was provided in recognised minority regional languages (noting that there is a wide variety among Member States in the presence and recognition of regional languages alongside the national language(s)).

Gender equality in the executive and the judiciary

The **role of women in environmental governance** differs between Member States. Information was collected on the percentage of women high-level administrators and ministers in public authorities related to the environment, and on the proportion of female professional judges.

According to the “2017 Gender Statistics Database”⁴⁷ of the European Institute for Gender Equality, the proportion of **women in high level decision making positions in ministries or departments** in charge of environment, climate change, transport and energy differed between Member States. While in Denmark only 15.4% women work in such high level decision making positions, the share was 71.4% in Bulgaria. Other Member States with a majority of women in senior positions were Portugal with 66.7%, Finland with 59%, Slovenia with 58.3%, Romania with 51.3% and Slovakia with 51.2%. There does not appear to be any correlation with broader patterns of comparative gender pay disparity between Member States.

The “2018 EU Justice Scoreboard”⁴⁸ provides information on the **proportion of female professional judges at 1st and 2nd instance courts** in 2016. In Latvia and Slovenia the proportion of female professional judges is the highest with 81% in 1st instance courts and 76% in 2nd instance courts in Latvia, and with 82% in 1st instance courts and 75% in 2nd instance courts in Slovenia. At the bottom of the list are Malta and Cyprus. While Malta has 50% female professional judges in 1st instance courts, it only has 11% female professional judges in 2nd instance courts. In Cyprus, also 50% of judges in 1st instance courts are female, but there are no female judges in 2nd instance courts.

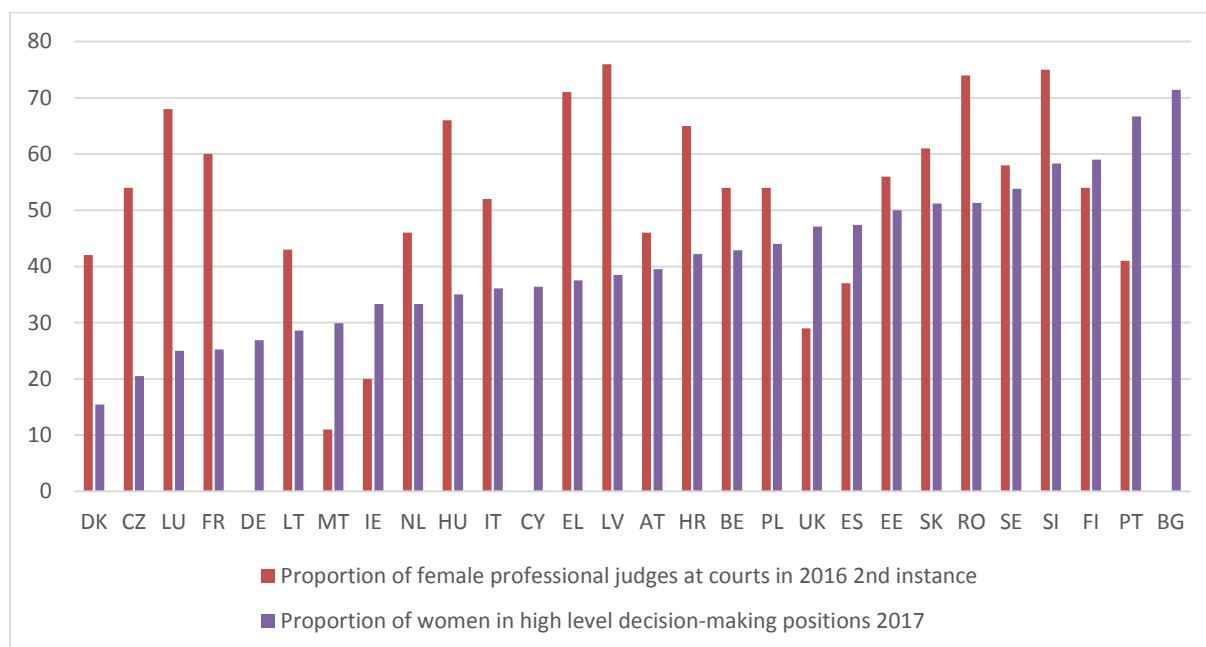
However, when the two sets of gender representation statistics are looked at side by side, there is no clear correlation between performance; with in some cases, high percentages of female judges, but low representation of women at senior level in Environment ministries. This

47 European Institute for Gender Equality (2017), Gender Statistics Database, Percentage of men and women in national ministries dealing with environment and climate change, administrators and ministers, http://eige.europa.eu/gender-statistics/dgs/indicator/pa_envenrg_env__wmid_env_nat_envadm/bar/table.

48 European Commission (2018), The 2018 EU Justice Scoreboard, p. 14, https://ec.europa.eu/info/sites/info/files/2018_eu_justice_scoreboard_quantitative_data_web_ok.pdf.

suggests that broader societal factors may not be a key driver here; and to the extent that under-representation of women in senior positions in Environment ministries is systemic, it may be due to issues specific to the civil service or to Environment ministries themselves.

Figure 12: Women in senior Environment ministry decision-making positions compared to women as judges in courts of second instance



Accessibility for a wide range of users of environmental information from websites

The accessibility of environmental information on official websites of ministries and authorities is an important precondition for effective participation in decision-making by a full range of categories of the population.

Brief descriptions of non-text content, the option of text being read aloud for people who cannot see, and the option to customise the text size are important tools to make **websites accessible for people with disabilities**.

We ran tests of the major environmental institutional sites in the Member States with a view to assessing the extent to which their content is accessible to people with vision and hearing impairment. The tests demonstrated that the main governmental websites dedicated to environmental policy and environmental impact assessment in most of the Member States (with the exception of Ireland and Romania) provided for the option to customize the text sizes. However, only some websites (Denmark, Estonia and Sweden) had the option of text being read aloud or provided brief descriptions of non-text content. One positive example is the website of the Estonian Ministry of Environment, which provides a brief text description for some illustrations and has the option of text being read aloud for much of the content.

Delivery of information in a familiar and accessible language is another important element in guaranteeing that a broad range of stakeholders are properly informed and able to take adequate part in decision-making, especially at the regional level. Where there are communities whose first language is not the same as the official or main national language, there is therefore a benefit in ensuring that information is available in the relevant minority languages.

Seventeen Member States have recognised regional and minority languages by the ratification of the European Charter for Regional or Minority Languages. However, only three of these Member States (the Netherlands, Slovakia and the United Kingdom) provide **information on the environment and environmental policy in such minority languages**, as shown in the second column of **Table 9** below. Spain and Sweden provide such information only partially and in the regions where the languages are mostly spoken. None of the remaining 11 Member States provide environmental information in any languages other than the official languages.

For example, Armenian is a recognised minority language in Cyprus, yet the relevant websites do not provide information in Armenian. There may also be significant linguistic minorities even in Member States without recognised minority languages; for example Estonia, where (although it is not recognised as a minority language) the mother tongue of 30% of citizens is Russian. Hence, the ministerial websites provide some information in Russian. However, other administrations relevant to environmental policy do not have a Russian language version of their website. As a last example, in Croatia the websites of relevant regional authorities provide information in Italian, but national websites only offer a Croatian and an English version.

By contrast, most of the Member States provide translations of certain environmental information on their websites in English. Environmental information is made available in English in most of the Member States.

Table 9: Use of regional and minority languages in Environment ministry websites

Member States which have ratified the Charter on regional and minority languages 17 MS ⁴⁹	Information provided in minority languages in addition to official languages	Member States which have not ratified the Charter on regional and minority languages
CZ, DK, DE, ES, HR, CY, LU, HU, NL, AT, PL, RO, SI, SK, FI, SE, UK	NL, SK, UK ES and SE (partially)	BE, BG, EE, IE, EL, FR, IT, LV, LT, MT, PT

3.2.5. Good practice examples on participation

This overview of good practices is a non-exhaustive list based on the individual country assessments. For more details and links to more background material for all these good practices, please refer to Annex 6.

Various good practices could be identified in Member States, aimed at aspects of public participation processes.

Public participation at an early stage in the decision-making process has been introduced by some Member States, especially in relation to controversial projects. For example, Germany introduced an **early participation** approach for planning processes in 2013 to respond to highly controversial planning processes such as the one for the railway and urban development project

49 Signatures and ratifications of the European Charter for Regional or Minority Languages; <https://www.coe.int/en/web/european-charter-regional-or-minority-languages>

Stuttgart 21 that triggered mass protests. Competent authorities can ask managers for major projects that may affect many people to inform the public at an early stage.

Various Member States allow for **participation in the drafting of legislation**. Estonia regularly invites stakeholders and interested citizens to take part in the drafting of legislation. In Latvia, citizens can initiate legislative processes and submit legislative proposals to the parliament.

Integrating public participation effectively and visibly in the decision-making process is important to ensure its credibility and impact on outcomes. Denmark is an example where there are good mechanisms for such integration of public participation and consultation. Other Member States, for example Belgium and Malta, have also developed interesting mechanisms to facilitate participation.

Some Member States have set up **online platforms for participation**, either on all policy issues, or specifically on the environment. Austria has a web portal at the federal level that provides information on participation on environmental issues, including handbooks, guidelines, background information, and practical examples. In 2015 Croatia set up a central internet portal for all Government electronic consultation. In the same year, Portugal launched its online portal “Participa!” that had 4030 registered users by June 2018 and is used for information dissemination and participation on environmental issues. In the United Kingdom, national consultation papers, the summary of responses, and information on how the responses have been taken into account, are uploaded to the single “gov.uk” consultations website.

In Estonia, the Ministry of Environment hosts **annual partnering events** to exchange with stakeholders about the work programme and priorities. They can help to establish a good and trustful relationship and provide a platform for exchange.

Various Member States have developed and published **guidelines for public participation** to assist the responsible authorities and officers. France has drafted a “Charter for Public Participation” that lists good practices for public participation processes. In the Netherlands, the Directorate for Participation of the Ministry of Infrastructure and Water Management has issued a code that defines societal participation and sets minimum requirements. Austria has developed a handbook on public participation that gives recommendations for successful engagement, details the costs for participation and describes good practice examples. In Croatia, a guide on public consultation has been drafted to help the responsible units of local and regional governments. Poland has issued guidelines on regulatory impact assessment that also provide information about the facilitation of participation processes.

Other support besides guidelines could be identified in some Member States. Croatia organises **training for the officers** that have to coordinate participation procedures. Romania gives **grants to non-government organisations** to improve their contribution in environmental decision-making via participation.

In Lithuania, representatives of the public can **participate in institutions** such as committees or working groups that have been set up to accompany processes such as the development of water basin management plans.

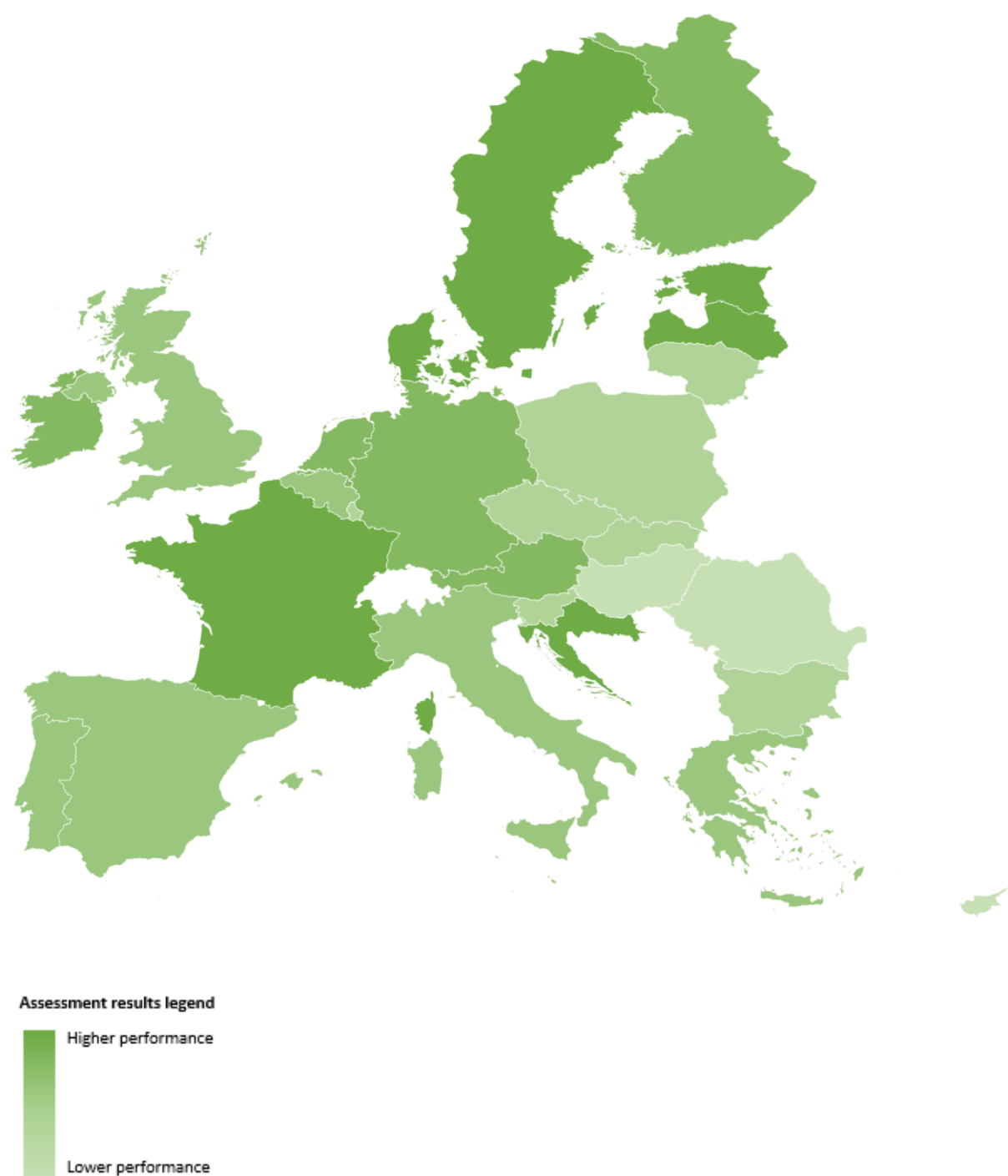
Administrative organisational arrangements may also facilitate public participation. In the Netherlands, a Directorate for Participation has been set up under the Ministry of Infrastructure and Water Management that facilitates and organises societal participation. It has issued a code with minimum requirements for societal participation.

3.2.6. Overall results on the public participation questions for which we categorised performance

An overview of the categorisation of performance is shown in Figure 13. Further information on the criteria, and more detail on how they were applied, is provided in Annex 5. As mentioned earlier, these overviews allow for a quick and synthesised access to the results of the study but should be treated with caution given the methodological particularities and existing data constraints.

Croatia, Latvia, Sweden, Denmark, Estonia, and France were categorised as having the highest overall performance in the questions we assessed in the area of participation. These countries have generally good frameworks for public participation in environmental decision-making for individuals and organisations. Cyprus, Romania and Hungary are at the lower end of the performance spectrum in this area. These Member States have approaches to public participation which are either weak or inconsistent (for example, allowing participation in some areas of policymaking, but creating barriers to it in others). **Hungary** scored relatively poorly in most aspects of our assessment of public participation questions, particularly in terms of information on public participation in EIA processes, and on citizen science issues; areas which were also noted as weaknesses for **Cyprus**. **Romania**, while it had a good approach to public participation in and submission of evidence to EIA processes, scored less well on issues such as targeted facilitation of public participation.

Figure 13: Overview of performance categorisation on Public participation



3.3. Access to justice

Effective legal mechanisms for implementing environmental policy and enforcing environmental legislation are vital to ensuring that the commitments made in legislation are delivered in practice. Sub-sections 3.3.1, 3.3.2 and 3.3.3 focus on the role of citizens and environmental associations in using national courts to secure compliance, rather than enforcement action by public authorities, which is dealt with under compliance assurance (section 3.4.) In particular, these sections relate to the conditions under which citizens and their associations can use courts to challenge decisions, acts and omissions of public authorities in order to uphold rights and ensure the fulfilment of obligations. This role is underpinned by access to justice guarantees that are often the result of decisions of the European Court of Justice and that are explained in detail in the Commission's 2017 Notice on access to justice in environmental matters. These guarantees cover, amongst other things, an entitlement to be informed about the conditions of access to justice (Section 3.3.1); the right to bring cases (standing) and protection against prohibitive costs (Section 3.3.2); and the obtaining of effective remedies if cases are won (Section 3.3.3).

Our research draws on previous work carried out for the Commission in 2013⁵⁰, particularly the reports for the individual Member States, and aims to assess publicly available information in the Member State on the new legal developments at the EU and national level since 2013, and their effects, including:

- New case-law of the Court of Justice as outlined in the 2017 Commission Notice and a number of cases decided since the Notice⁵¹;*
- Any relevant new national legislation on access to justice;*
- Any relevant new national case-law decisions on access to justice;*
- The latest information provided to the public on access to justice.*

We have looked at the extent to which Member States impose major barriers to individuals or NGOs bringing court cases to protect nature and court cases to protect human health from air pollution with reference to the two scenarios below. They are indicative of the general extent to which Member States enable individuals or NGOs to go to court to protect the environment. Two major categories of barrier have been examined. The first is the right to be heard – or legal standing. The second is the cost of bringing a cases, especially if the claimant loses.

Scenario 1: *A public authority decides to undertake, or approves, an infrastructure project (such as construction of a new road, installation of energy transmission infrastructure, etc) which might have an impact on a Natura 2000 site.*

Scenario 2: *The competent authority for air quality legislation has failed to establish an air quality plan for a municipality in breach of EU air quality norms; or an action plan has been adopted but is considered by members of the public or environmental NGOs to be clearly insufficient to reduce the risk of exceeding air quality norms.*

An assessment of questions of access to justice, and legal standing, in environmental issues relies on understanding of a potentially complex area of law; and is therefore challenging to

50 Darpö I., (2013), country studies: http://ec.europa.eu/environment/aarhus/access_studies.htm.

51 The following post-Notice cases are relevant to the two scenarios: first, Cases C-196/16 and C-197/16, Comune de Corridonia is relevant to effective remedies, explaining what should happen where an impact assessment was not carried out; second, Case C-470/16, North East Pylon is important in clarifying how courts should deal with issues of litigation costs.

address as part of a broader governance assessment such as this one. In general, it is clear that environmental NGOs have progressively been granted more liberal rights to bring cases, particularly challenges to governmental decisions, than individuals. Other issues can still generate barriers to effective access to justice, however, particularly costs, and in some cases a lack of confidence in the effectiveness of the remedies which can be granted by the courts. The quality of the information that Member States provide to their citizens on the scope for them to access environmental justice varies, with some providing little or inadequate information.

3.3.1. Major barriers to access to justice (legal standing requirements)

The level of access to justice depends on what limits exist on who can bring cases to court. The Aarhus Convention requires environmental NGOs and members of the public to be able to bring cases. We assessed the level of implementation in practice of these rights, making use of the standard scenarios referred to above. A further frequent barrier to access to justice is the cost to individuals or NGOs of bringing cases; we looked at costs from the perspective of overall affordability (costs of procedures, legal counsel and experts) as well as the existence of mechanisms to mitigate costs where needed to facilitate wide and non-discriminatory access to justice.

The criteria for standing in the Member States to bring cases to court challenging acts or omissions of public authorities with respect to rights of access to information and public participation have been highly influenced by the Aarhus Convention. Because of the attention paid in the Convention to the standing of NGOs which meet certain requirements under national legislation, **the vast majority of Member States have adjusted their legal frameworks to grant standing to such organisations.** Relevant decisions of the Court of Justice of the European Union have been instrumental in **defining the standards for legal standing** for environmental NGOs throughout the European Union, and in several assessment reports the efforts of Member States or national courts to follow the relevant decisions were specifically mentioned. The findings of the Aarhus Convention Compliance Committee endorsed by the Meetings of the Parties seem also to have played a role in upholding the standard related to broad legal standing for environmental NGOs.

In several instances **environmental NGOs now have more secure standing than individuals have.** Whereas all but four Member States were found to have liberal standing with respect to environmental NGOs, only 16 out of 28, or 57% of Member States were found to have liberal standing with respect to individuals. However, it should be noted that the quality of information available about the application of standing rules in the case of individuals was in general worse than for NGOs, due to the fact that NGOs are publicly identifiable and accessible, and use publicity to bring attention to cases where NGO standing is restricted. It also appears that in most Member States the sheer **number of cases brought by NGOs is greater than the number of cases** brought by individuals, particularly in respect of challenges to acts or omissions of public authorities in relation to proceedings where public participation is required. With respect to challenges of **acts or omissions of public authorities in cases related to full or partial refusal to grant access to information**, standing appears to be less restricted.

Table 10: Legal standing for individuals versus legal standing for NGOs

		Legal standing for NGOs	
		Standing restricted in some cases	Liberal standing
Legal standing for individuals	Standing restricted in some cases	BG, AT, PL, FI	DK, DE, CZ, HR, HU, MT, SI, SK
	Liberal standing	none	BE, EE, IE, EL, ES, FR, IT, CY, LV, LT, LU, NL, PT, RO, SE, UK

In a few Member States, the general standing rules are traditionally quite liberal, approaching *actio popularis*. Portugal provides an example where such actions are guaranteed under the Constitution in certain areas, including instances where Constitutional rights related to quality of life and protection of the environment are potentially infringed. In Latvia, a special exception to the general requirement that a person must allege the infringement of a subjective right to have legal standing has been carved out in the category of cases that relate to the protection of environmental interests. The Greek Council of State in its jurisprudence accepts a very broad interpretation of legal standing on cases for the protection of the environment, including even groups of persons not possessing legal personality who are interested in the protection of the environment.

In the majority of Member States, however, **legal standing requires a demonstration that the rights or the interests of the individual or organisation may be impaired**. In the Netherlands, the standing of individuals and organizations in administrative procedures has shifted from a rights-based to interest-based approach. In various countries, the determination of the scope of rights or of interests may be problematic. One area identified in the reports is the question of the legal proximity of the complainant to the actions or inactions complained of. As such matters are usually fact-based and complex, in effect the result is a case-by-case determination which can result in inconsistent or unclear application across a Member State's entire legal system.

The application of such requirements in specific cases related to the environment is determined in accordance with EU law, which grants special consideration to environmental NGOs. While many Member States base NGO standing solely on the purposes of the organisation as described in its statute, other Member States apply **certain criteria in determining whether a specific environmental NGO can avail itself of liberal standing rules**. Sweden is an example of the latter approach. Organisations there have to be not for profit, the main purpose according to their statutes should be to promote nature conservation, environmental protection or outdoor activities, they must have a minimum of 100 members or show "support of the general public," and they must have operated in Sweden for a minimum of 3 years. These criteria have been

amended after earlier, more restrictive criteria were found to be inconsistent with the Aarhus Convention.

With respect to the scenarios we identified, for decisions approving infrastructure projects as specified in the first scenario, NGO standing is widely granted⁵². In general, the case of the *failure to act* by the authorities presented more obstacles to standing. Typically, the burden of showing that a particular failure to act directly affected the rights of a person could in practice constitute an obstacle to standing in some Member States⁵³. This is despite the relevant CJEU case law holding that persons affected by the exceedance of limit values have a right to request the establishment of effective air quality plans. In some Member States, the CJEU case was specifically taken into account in establishing the standing rules in such cases. Germany is a positive example of responding to the CJEU case, in which individual standing is guaranteed as well as organisational standing. However, the assessments in general revealed that there are **inconsistent practices across the Member States with respect to how efficient they are in taking into account relevant CJEU decisions** on the national level.

3.3.2. Major barriers to access to justice (costs of procedures in front of the court)

The issue of costs as a barrier to effective access to justice is a complex one, and there is no “one-size-fits-all” solution to the problem. Costs may be high or low in absolute terms, but it is equally important to look at relative affordability, which depends on many additional factors. **Various mechanisms are available to mitigate costs, particularly in those Member States where costs are potentially high** and where these could potentially represent a barrier for individuals or organisations. Yet the absence of such mitigation mechanisms does not necessarily indicate that individuals or organisations are prevented from seeking access to justice in environmental matters, because it is sometimes the case that overall costs are not considered to be overly burdensome. The costs associated with access to justice which we looked at (court fees, compulsory lawyers’ fees, expert fees, to a certain extent-injunctive relief burden) are considered as presenting barriers in Belgium, Ireland, and the United Kingdom. In 13 of the remaining Member States some costs present barriers, and policy measures to address the costs do not fully eliminate the risk of barriers⁵⁴. We did not look specifically at the risks associated with costs resulting from the application of the ‘loser pays principle’; it should be noted that the latter is a major driver of potential costs faced by litigants particularly in Ireland and the United Kingdom, and (because it is not predictable) can be seen as exercising a chilling effect on legal action.

The approach taken in the categorisation of performance was to determine an approximate value based on an overall assessment with respect to the general issue of costs as a barrier, regardless of the specific interaction of costs in absolute or relative terms or the presence or absence of mitigating measures among other variables. While some general categorisation could be made, further work would need to be carried out to develop a more complete framework for assessment taking into account more variables and increasing the comparability across the Member States.

Costs can generally be said to be manageable for administrative procedures including applications to administrative courts. The major cost issues are encountered in the case of judicial challenges to acts or omissions of public authorities and **the largest component is lawyers’ fees. The loser pays principle** is common throughout the Member States, and

52 Standing will be most likely not granted for both scenarios in ES, HU, NL, PL, SI

53 These Member States include: BE, BG, CZ, HR, LU, MT, PT, SK, FI

54 These Member States include: BG, DK, DE, ES, HR, IT, LV, LU, MT, AT, PL, PT, FI.

although in many countries, for example the Netherlands, public authorities will rarely seek to have their costs covered in cases where they prevail, in some countries it is a definite risk that an unsuccessful litigant against a government agency may have to pay the authority's legal costs. It is even public policy in one or two Member States to apply this rule in order to discourage speculative or frivolous cases from being brought.

In recognition of the need to reduce cost barriers to access to justice in environmental matters, **many Member States have introduced standards aimed at limiting the negative effects of costs, either by legislation or by judicial decisions.** A typical example is Estonia, where the Supreme Court restricted compensation of the expenses of the administrative authority from the complainant in several ways, taking into account the necessity of using external legal assistance for an administrative authority, compliance with the principle of proportionality, qualification of the officials or employees of the administrative authority, and the economic situation of the appellant. In addition, the public interest in the issue under dispute can be considered as a substantial and exceptional circumstance. **The court practice, therefore, may exempt the complainant from paying costs** even where the case is decided in favour of the administrative authority.

Case law of the CJEU has determined that decisions on costs need to take into account both reasonableness in terms of the costs of the proceedings themselves, and the financial situation of the person concerned. **Protective Costs Orders** are employed in some Member States to limit the potential financial exposure of litigants. Besides these types of general schemes that apply to litigation generally, special cost limitation regimes may be put in place as a matter of public policy with respect to certain classes of cases, especially where this is a strong public interest or public purpose in allowing such cases to go forward. Therefore, in the UK, a special Environmental Costs Protection Regime has been put into place since 2013, amended in 2017 and 2018. This regime imposes a cost cap for recovery of costs against an unsuccessful claimant in cases that fall under the Aarhus Convention, and the cap can be further reduced upon a demonstration that such costs would be prohibitively expensive in an individual case. Ireland is another example of a Member State with special costs rules, in its case related to decisions under EIA, IED and the Habitats Directives: however, this falls short of the range of environmental legislation to which the rule against prohibitive costs needs to be applied. In the Netherlands, there are statutory limits to costs in particular categories of cases.

In Slovakia, the relevant **statute specifically exempts environmental NGOs** from having to pay costs in cases that relate to public interest. Also, public authorities may not recover their costs related to a case brought challenging the legality of an administrative decision, even when the administrative authority prevails in the case. This is also the case in Poland.

In the majority of Member States, there is **no special cost regime related to environmental cases.** Nevertheless, there may be mechanisms in place to mitigate costs. Quite a number of Member States have schemes for legal aid that can provide a great deal of assistance in meeting the costs associated with access to justice in environmental matters. Generally, organisations have fewer opportunities to avail themselves of the various mechanisms aimed at cost mitigation. However, in Italy and the Netherlands, for example, legal aid can also be extended to environmental NGOs if their annual income is below a certain threshold. Member States also provide public guidance (as in Germany) on expected or typical costs related to access to justice as a means of increasing predictability.

In a handful of Member States there seems to have been little attention given to the problem of costs. In some of these countries, general surveys related to costs indicate that costs in general are not considered to be overly burdensome. However, it is unclear whether an infrequency of cases may play a role in the perception of the problem and the lack of response.

3.3.3. *Effective remedies*

A final element in the effectiveness of the right to challenge decisions on environmental issues is the sort of decisions that Courts can make. We therefore looked at the availability and use by Courts of a range of legal remedies in environmental cases.

It is generally within the power of a court to annul a decision taken by an administrative authority if that decision does not have a proper legal basis, in part or in full; to award compensation for harm caused; or to issue an enforcement order requiring elimination of the consequences of a defective administrative act or administrative measure. **In most Member States, courts can issue a declaratory judgment ascertaining that an administrative act is null and void** or that an administrative act or measure is unlawful, or ascertaining a fact that is of material importance in an administrative proceeding. In Germany, in a class of cases, the court may only annul the decision of the competent authority for violation of environmental law in cases where the violation cannot be rectified by a supplementary decision or supplementary administrative procedure.

One of the most important legal mechanisms with respect to environmental governance is the possibility **to request a court to suspend the execution and legal effect** of a decision by an administrative authority pending a determination as to whether that decision had a proper legal basis. According to some of the Member State assessments, it is very rare in those jurisdictions for courts to order suspension of execution of a decision pending the decision on the merits of the case. Moreover, even where this remedy is awarded more frequently, it is not automatic and requires a request to be made by the complainant.

The CJEU has, moreover, clarified that the right to an effective remedy in combination with environmental procedural rights under the Aarhus Convention may require that administrative proceedings be automatically suspended pending consideration whether an organization or individual has been wrongfully denied standing in such proceedings⁵⁵.

Another important legal remedy is the power of a court to **issue injunctions or mandatory orders to administrative authorities compelling them to act or refrain from acting** in a particular set of circumstances. Where appropriate, injunctions may be issued as an element of the remedies determined in the final order (final or permanent injunctions), or while proceedings are pending in order to maintain the status quo or avoid loss or destruction (called preliminary or interim injunctions). Interim injunctions can be initially temporary but may be made permanent in a final judgment. In environmental cases, preliminary or interim injunctions are often important in order to avoid loss or damage to the environment. In most Member States the factors to be taken into account in granting preliminary or interim injunctions are the urgency of the matter and the likelihood of ultimate success on the merits. The types of injunctions in Estonia are typical:

- suspend the validity or enforcement of the contested act;
- prohibit the making of an administrative act or the taking of an administrative measure;
- order that an administrative act be made or an administrative measure be taken or discontinuing a measure which is in progress;
- attach any property or enter a notice in the relevant register concerning the presence of a dispute pending before the court;

⁵⁵ See Slovak Brown Bear Case II, Case C-243/15, Lesoochránárske zoskupenie VLK v Obvodný úrad Trenčín, (8 November 2016); <https://europeanlawblog.eu/2017/03/24/brown-bears-ii-aarhus-and-the-charter-show-their-teeth/>.

- prohibit the addressee from engaging in the activity or order such activity to be performed, or establish conditions for such activity, including demanding a security to be given in favour of the applicant.

It is common for the interim injunctive power to be dependent upon the complainant posting **a bond in a certain amount to protect the defendant or other parties against losses in case** the actions complained of would ultimately be legally upheld. In recognition of the discouraging effect of the bonding requirement, some Member States such as Hungary have introduced a proportionality test taking into account the relative advantages and disadvantages of granting the requested relief. Italy does not require posting of a bond where issues of basic or Constitutional rights are concerned. In some countries the right to a healthy environment could provide a justification for avoiding application of bonding requirements.

Courts' power to issue injunctions as part of a final judgment is typically limited in terms of the actions that may be compelled. In certain jurisdictions a court may order a public authority to take action where the authority is under a legal duty to act, but the court is usually very limited in terms of its powers to order the authority to act in a certain way. Generally, the public authority has discretion and responsibility to act in accordance with the law applicable to it. This limitation has proven problematic in terms of enforcement of the Aarhus Convention, in which Parties are required to provide for substantive review in addition to procedural review. The result may be that litigants are required to come into court again and again to challenge the new or revised decisions on a substantive basis.

The second scenario referred to in the introductory text for this dimension – failure to adopt an adequate air quality plan - illustrates this problem; if the public authorities continue to adopt new plans which nevertheless fall short of the standard required, environmental litigants may need to keep taking legal action. To address this difficulty, some countries have begun to employ a mechanism whereby courts maintain continuing jurisdiction over a particular legal process, **to make it easier for complainants to step back into court to challenge the next stage in the administrative procedure.** A recent example occurred in the UK, where government plans to achieve air quality objectives were repeatedly found to be defective, and the court made the exceptional decision to allow the complainants to apply for further relief if needed without starting a new case. This mechanism is similar to the mechanism known as continuing mandamus which is used in other countries. To be clear, this mechanism only applies in situations where the court has made a final ruling on a particular matter and further procedural steps are envisioned.

In Italy, under the second scenario, it would also be **theoretically possible for a court to order the public authorities to take another suitable interim measure** to address the failure to fulfil a statutory duty, pending the fulfilment of that duty. Such a situation would exist if the complexity of the action required was so great that it could not be expected to be fulfilled within a reasonable time. However, there is little experience with such a situation.

Powers to compel a recalcitrant authority may also be limited in certain jurisdictions. In many Member States, courts have no authority to impose a fine on public authorities for failure to comply with orders.

3.3.4. Practical information on Access to Justice

The effectiveness of the provision of access to justice in environmental matters depends upon a number of factors. As recognized in the Aarhus Convention, the public is often unaware of the opportunities for access to justice available to it; and it is therefore important for authorities to facilitate and assist the public, particularly in providing easy access to information about such rights. We therefore surveyed the websites of public authorities to determine whether a member of the public concerned by the given scenarios could easily determine how to get access to justice.

An important element of ensuring proper access to justice on environmental matters is the availability of clear transparent and use-friendly information about access to justice to the public. **Various approaches have been employed in the Member States ranging from delivery of clear communication on websites** on how access to justice on environmental matters can be exercised (Denmark, France and Germany) to **a general failure to communicate information on access to justice on environmental matters** (in a quarter of the Member States).

A few countries developed targeted brochures or manuals for access to justice in environmental matters (Denmark, France and Germany).

Some of the Member States have chosen **to make information on access to justice** available on websites (or webpages within institutional sites) dedicated to environmental information. A few Member States place such information on webpages dedicated to Aarhus Convention implementation⁵⁶, while others rely on web pages providing information on judicial appeals linked to or on the websites of the courts or Ministries of justice.

Often the information on access to justice **is not environment-specific but refers to general administrative litigations**, which can be considered sufficient in Member States where environmental matters are challenged within the general administrative judicial review procedures and legal standing arrangements are identical.

In two thirds of the Member States information on access to justice on environmental matters is **made available but is not always presented in a user-friendly way**, or is not sufficiently targeted towards, or understandable by, its audience. Other information provided **is often incomplete**, offering details on access to justice but not delivering clarifications on who can file a complaint, potential costs to be borne, or on the possible remedies. For instance, even though information on justice in environmental matters can be found on the website of the Ministry of Justice⁵⁷ of France, there is no thematic area on the environment in the search tools, which makes it difficult for users to access relevant information. Similarly, the website of the French Conseil d'Etat⁵⁸ has information on environmental legislation and specific cases, but the search tools are not user friendly.

In Bulgaria and Hungary, however, there are **instructions incorporated in each decision or act on how the decision or act can be challenged** and in front of which court and what deadlines are to be observed. Thus, those having legal standing and other affected persons are provided with information when the decision is officially communicated to them on the

56 BE, FR, IE, IT

57 Ministère de la Justice, <http://www.justice.gouv.fr/>

58 Conseil d'Etat, <http://www.conseil-etat.fr/>

availability of appeal. This information does not, however, include information on costs or remedies.

In a quarter of the Member States the information on access to justice is **considered insufficient or lacking**. The information provided by the authorities is of a very general nature, has a strictly legal character, and has not been summarised in more easily accessible language⁵⁹.

In some of the Member States there **are civil society organisations which provide guidance on access to justice**, for example the Frank Bold Society in the Czech Republic, the NGO *Legambiente* in Italy, and the Slovenian NGO PIC. PIC launched a special website called ‘Environmental Defenders’⁶⁰, where it publishes information on the legal protection of the environment and nature which is specialised on support to access to justice in environmental matters for public.

As to the relevance of the **information provided on access to justice for the two scenarios, with a few notable exceptions**, in most of the Member States there is no specific public information on access to justice in the area of infrastructure development which might have an impact on Natura 2000 (Scenario 1 described above in the introductory text for this dimension). Likewise, there are no specific websites that provide details on how members of the public can access justice in cases where the competent authority for air quality legislation has failed to establish an air quality plan, or a plan has been adopted but is considered by members of the public or environmental NGOs to be insufficient to reduce the risk of exceeding air quality norms (Scenario 2 described in the introductory text).

Among the exceptions is Denmark where **clear information is made available on how access to justice provisions apply in both scenarios**. A step-by-step guide, including a video guide, to complaining against the competent authority in any area of environmental law is provided on the Danish Environment and Food Board of Appeal⁶¹ website. With reference to Case 1, a brochure published by the Ministry of Environment and the Federal Environment Agency has on section on the question “*How can decisions of authorities be reviewed in case of projects of environmental relevance?*” It provides information on the conditions for access to justice by individuals and recognised environmental organisations. The information is clear and user-friendly. With reference to scenario 2, the same brochure has one section on the question “*How can environmental regulations be enforced if authorities fail to act?*” It again provides information on the conditions for access to justice by individuals and recognised environmental organisations.

In the Czech Republic for scenario 2, the website “*Right to clean air*”⁶² provides helpful guidance, where similar cases are directly mentioned.

3.3.5. *Judicial capacities, training and information events*

The attention given to environmental issues in judicial training and capacity building could be seen as an indication of a MS’s appreciation of the role of the rule of law in environmental governance, as well as a reflection on the preparedness of the judiciary and the quality of judicial control. Sub-section 3.3.4 relates to courts dealing with all kinds of environmental

⁵⁹ These Member States include: CZ, CY, NL, PL, PT, FI, UK.

⁶⁰ ‘Environmental Defenders’: <http://zagovorniki-okolja.si/>

⁶¹ Danish Environment and Food Board of Appeal, *Hvordan klager du?*, <http://nmkn.dk/klage/hvordan-klager-du/>

⁶² Right to Clean Air, <https://www.right-to-clean-air.eu/cz/soudni-pripady-a-rozhodnouti/ceska-republika/soudni-pripady-a-rozhodnuti/>

cases, i.e. not just the private enforcement ones mentioned in sub-sections 3.3.1, 3.3.2 and 3.3.3. The assessment is intended to cover courts dealing with “public enforcement” action brought as a result of enforcement action considered under section 3.4 below, and to include courts dealing with relevant criminal law matters, as well as courts dealing with administrative law matters.

Member States differ widely in their approach to providing information on judicial capacity building on the environment. To this end it proved challenging to use this criterion to assess how capacity building of courts and tribunals is prioritised by the Member States. We were also able to assess to what extent environmental topics are prioritised in comparison to other subjects of judicial training. However, based on the information compiled and reviewed on the capacity building provided over the last two years, it can be concluded that **none of the MS appears to have good systematic, regular capacity building activities** on environmental law enforcement within institutional programmes. About one third of the MS include environmental topics in training programmes for the judiciary, but these do not appear to follow a trend in prioritisation of capacity building measures and often are **self-standing and one-off events**.

The available evidence did now allow for an analysis of the preparedness of the judiciary to hear environmental cases and the quality of judicial control.

Training is provided by **specialised judicial academies and training institutes** in environmental matters primarily focusing on environmental crimes. There are a few interesting examples of proactive measures taken by individual Member States to ensure judicial capacity building is prioritised. For instance, the court system in Estonia and Lithuania seems to support continuing education. Judges are expected to take part in compulsory training required by the relevant legislation, which includes environmental law topics.

Considering efforts in improving the quality of environmental law enforcement, many Member States have **initiatives to support the courts by introducing electronic means for information sharing**. In particular in Portugal, there is a focus on access to justice⁶³ based on innovation and technological means (online portals for data-sharing purposes)⁶⁴, and enabling the courts’ human resources to cope better with environmental law challenges⁶⁵. The Centre for Judiciary Studies (Centro de Estudos Judiciários, CEJ⁶⁶) provides a course (“formação contínua”) in environmental topics⁶⁷ for magistrates.

In some of the Member States, **capacity building is provided through national and international enforcement networks**, which are often entrusted with delivery of guidance and advice on concrete aspects of environmental law enforcement. These are not necessarily addressed to the judiciary alone but to the enforcement authorities including prosecution, customs and police. For instance, the “Expertise Network Environment” in Belgium has been created within the Public Prosecutors Offices. It aims to support prosecutors dealing with

63 O que é o Acesso ao Direito e aos Tribunais?, Ordem dos Advogados, <https://portal.oa.pt/cidadãos/acesso-ao-direito/>

64 Dados e informação públicos, XXI Governo Constitucional, <https://www.portugal.gov.pt/pt/gc21/area-de-governo/justica/iniciativas-e-medidas/gc21/outras-informacoes/justica/aumento-e-qualificacao-de-recursos-humanos.aspx>

65 Aumento e qualificação de Recursos Humanos, XXI Governo Constitucional, <https://www.portugal.gov.pt/pt/gc21/area-de-governo/justica/iniciativas-e-medidas/gc21/outras-informacoes/justica/aumento-e-qualificacao-de-recursos-humanos.aspx>

66 Centro de Estudos Judiciários, <http://www.cej.mj.pt/cej/home/home.php>

67 Centro de Estudos Judiciários (2018), Plano de Atividades 2017/2018, p. 34, http://www.cej.mj.pt/cej/conheca-cej/fich-pdf/docs-pub-legal/2017/Plano_de_atividades_2017_2018.pdf

environmental cases, and provides advice, ex officio or on request. The Prosecutor General with the Court of Appeal of Brussels coordinates the Network.

Two of the Member States have established **specialised environmental courts** (Finland and Sweden). In the majority of the Member States, the general administrative courts hear environmental law cases. The administrative structure, judicial system or concerns about resource efficiency are among the factors which had influenced the creation or alternatively the perceived lack of relevance of such institutions. Therefore, the conclusion cannot be drawn that the Member States which have established environmental courts or other specialised environmental tribunals are prioritising access to justice on environmental matters more than other countries. Sweden is the only Member State with clearly specialised courts that rule on environmental issues. These are the land and environment courts, including five land and environment courts and one Land and Environment Court of Appeal. In the Finnish administrative court system, a major part of all environmental cases have been centralised to the Vaasa administrative court. This court deals with all cases under the Environmental Protection and the Water Act, which makes up for roughly a quarter of environmental cases in administrative courts nationwide. In 2017 Vaasa administrative court heard 1,685 cases, of which 32% were environmental⁶⁸.

Table 11: Specialised environmental courts, units or sections of courts

No specialised court or units	Specialised units or sections of courts either first or second instance	Specialised environmental courts
BG, CZ, ES, HR, CY, LT, LU, HU, NL, PL, PT, RO, SI, SK	BE, DK, DE, EE, IE, EL, FR, IT, LV, MT, AT, UK	FI, SE

There is no specialised environmental court in Denmark. However, there are a number of administrative appeals boards that deal with environmental law, primarily the **Danish Environment and Food Board of Appeal**, but also the **Danish Town and Country Planning Board** and **Danish Energy Board of Appeal** to some extent. Most environmental cases are handled at this level, outside the formal legal system, within the administration, generally leaving substantial discretion to the authorities⁶⁹. Malta does not have a specialised judicial body on environmental matters per se but an administrative body, called the **Environment and Planning Review Tribunal**.

In a few of the Member States there is internal specialisation and distribution of cases in the courts, thus, one or more divisions of the administrative courts are responsible for cases of environmental law (Austria, France). In a few Member State there is specialisation at the level of appellate courts. For instance, in Greece, the Council of State (Supreme administrative court) 5th Department is specialised in environmental matters. In Italy, the Superior Court for Public Water and the Regional Water Courts should be mentioned, with competence on *inter alia* public administration decisions on public waters and public waters regime.

68 Vaasan Hallinto-oikeus (2018), Toimintakertomus 2017, 23.5.2018, https://oikeus.fi/hallintooikeudet/vaasanhallinto-oikeus/material/attachments/oikeus_hallintooikeudet_vaasanhallinto-oikeus/toimintakertomus/G4b7STXH5/Vaasan_hallinto-oikeuden_toimintakertomus_2017.pdf

69 Anker, H.T., Nilsson, A., (2010), [The role of courts in environmental law - Nordic perspectives](#), Journal of Court Innovation

3.3.6. Corruption issues relevant to the environment (permitting, natural resources, environmental crime)

Finally, we looked for any available information on corruption issues relevant to the environment. Particular environmental issues which may give rise to opportunities for corruption include the granting of permits or of extraction rights. However, in most member States it proved difficult to find studies that presented separate information on corruption in relation to the environment. As a proxy, we also looked at Eurostat data on expectations of bribery and corruption.

It proved **difficult to collect information and statistics** on cases of corruption relevant to permitting, natural resources and environmental crimes. Most of the sources provide anecdotal references to cases of corruption, which do not allow broader conclusions to be made. However, a number of initiatives and measures have been reported by the Member States to combat corruption, among others, on environmental matters. Researchers came across a few cases of corruption practices in environmental matters worth noting. In August 2018 a major case of environmental corruption appeared in Slovakia, when the National Criminal Agency (NAKA) Anti-Corruption Unit charged employees of the Environmental Department of District Office Bratislava with corruption.⁷⁰ The suspects were asking for bribes when issuing positive verdicts and opinions (related to building approvals, waste or waste water) and are alleged to have received bribes – via a company that was pretending that it represented developers during proceedings at the Environmental Department – amounting to about €470,000.⁷¹ The department allegedly had a price list when bribes for individual permissions amounted to thousands of euros. Bribes related to final building approvals for large projects allegedly amounted to hundreds of thousands of euros. It is reported that NAKA has been working on the case for two years and investigations in this case are still ongoing

A few Member States have introduced on the websites of their environmental authorities electronic options for submission of information on corruption. For instance, the General Directorate for Environmental Protection of Poland has a dedicated e-mail address where citizens can report environmental corruption issues⁷².

The **corruption perception index of Transparency International for 2017** demonstrates that there is still quite a substantial difference on perception on corruption in EU, having ranked Denmark and Finland on second and third place accordingly and Hungary ranked on place 66 and while Bulgaria is on 71 out of all 180 countries assessed⁷³.

Special Eurobarometer 470: Corruption, published in 2017⁷⁴, looked into the perception of corruption among respondents, specifically whether they think that the giving and taking of bribes and the abuse of power for personal gain are widespread among inspectors (health and safety, construction, labour, food quality, sanitary control and licensing) and police & customs

70 See <https://spectator.sme.sk/c/20889015/police-uncover-corruption-scheme-at-environment-department-in-bratislava.html>

71 See <https://glob.zoznam.sk/korupcia-na-okresnom-urade-v-bratislave-fungovala-podla-jasnej-schemy-pribudli-obvineni/>

72 Działania antykorupcyjne, Generalna Dyrekcja Ochrony Środowiska, <http://bip.gdos.gov.pl/dzialania-antykorupcyjne>

73 https://www.transparency.org/news/feature/corruption_perceptions_index_2017

74 European Commission (2017), Special Eurobarometer 470 “Corruption”, p. 23, <http://ec.europa.eu/commfrontoffice/publicopinion/index.cfm/ResultDoc/download/DocumentKy/81007>

officers. The share of respondents who consider the problem is widespread varies significantly between the Member States, with some scoring above 50% for inspectors⁷⁵ (and some above 50% for police and customs officers⁷⁶. Sweden and the United Kingdom scored below 20% for inspectors and Denmark, Germany, Finland and Sweden scored below 20% for customs and police.

3.3.7. Good practice examples on Access to justice

This overview of good practices is a non-exhaustive list based on the individual country assessments. For more details and links to more background material for all these good practices, please refer to Annex 6.

A key challenge in identifying good practice in the area of access to justice is the variation in legal systems, and in court practices, between Member States. It should therefore be noted that the practices we have identified below are not presented as being capable of adoption across the board by all Member States. Rather, as with other examples of good practice identified in this report, they are practices which appeared to the research team to provide interesting material for reflection for authorities looking into how to improve access to justice in environmental matters.

Legal standing and costs

The Greek Council of State in its jurisprudence accepts **a very broad interpretation of legal standing on cases for the protection of the environment**. The same broad interpretation **applies to appeals in the administrative courts**. The circle of interested persons is thus quite broad, because not only inhabitants of the area where the project's impacts are felt, but also NGOs, legal entities and even groups of persons not possessing legal personality who are interested in the protection of the environment can submit a petition to the court.

Lithuanian legal acts ensure a **broad access to justice** in environmental cases for individuals and non-governmental organizations. There are no restrictive standing rules in Lithuania and the costs for bringing a case to a court are relatively low.

Latvia grants the public, notably individuals and NGOs, a very broad access to justice in environmental cases (*actio popularis*).

Practical information on access to justice

In Germany, **comprehensive information on access to justice** on environmental matters is provided through the websites of the Ministry for Environment (BMU) and the Federal Environment Agency (UBA). A **specialised brochure** was published with practical information about the rights of citizens and environmental organisations in the context of the Aarhus Convention⁷⁷. The brochure describes in a clear and precise way the available legal remedies and also addresses the associated costs.

75 BG, EL, LV, LT, PT

76 ES, HR, CY, LV, LT, RO

77 Umweltbundesamt, Bundesministerium für Umwelt, Naturschutz und nukleare Sicherheit (2018): Beteiligungsrecht im Umweltschutz. [Was bringt Ihnen die Aarhus-Konvention?](#), pp. 30 et seq.,

Furthermore, the website of the UBA provides information about the Environmental Appeals Act as well as links to the **most relevant rulings of the Court of Justice of the European Union (CJEU) and the Federal Administrative Court.**

In France, websites like the ‘**Tout sur l’environnement**’ portal⁷⁸ or **Legifrance**⁷⁹ provide **information on the national legal provisions** on access to justice in relation to the Aarhus Convention. They refer to articles related to access to justice by environmental NGOs, general information about legal proceedings, costs of procedures, the possibility to secure legal aid, and effective remedies.

The **joint national portal ‘www.aarhus.be’**, operated on behalf of all four competent government authorities in **Belgium**, which is hosted on the website of the Federal Public Service: Health, Food Chain Safety, and Environment, provides a dedicated page on access to justice in environmental matters⁸⁰ as well as a dedicated page on the different ways this access can be sought⁸¹. In **Italy**, as well, the Ministry of the Environment, maintains a portal on the Aarhus Convention⁸². In **Ireland**, the **Citizen’s Information website has an easily located page on the Aarhus Convention**⁸³, which describes the broad requirement for access to justice, and provides a link to its page on the judicial review process.

Lithuanian Courts’ internet portals provide user-friendly information about access to justice in general⁸⁴. The **Latvian** judicial administration in their website provides information on different judicial aspects, including guide on how to submit a claim before the court of justice. However, neither of the latter websites provides specific information for environmental cases.

There is **transparent and user-friendly communication** for members of the public about access to justice in environmental matters in **Denmark**. An introduction and links to relevant bodies can be found on the MEF website⁸⁵.

The **Austrian** public administration maintains a **one-stop-shop Business Service Portal called ‘Unternehmensserviceportal’ (USP)**. It provides general information on access to justice in environmental matters.⁸⁶ It also gives more specific information on access to review procedures.

The Conseil d’Etat⁸⁷ and the Commission on Access to Administrative Documents website⁸⁸ in **France** both include **guidance about the procedure to follow to exercise access to justice**

78 Quelles actions dans quels cas ?, Tout sur l’Environnement, <https://www.toutsurlenvironnement.fr/Aarhus/lacces-du-citoyen-a-la-justice/quelles-actions-dans-quels-cas>

79 See in particular the [Code de l’environnement](#)

80 Public access to justice, FPS Health, Food chain and Environment, <https://www.health.belgium.be/nl/milieu/aarhusbe/de-burger-krijgt-toegang-tot-de-rechter>

81 Access to justice: which actions in which cases?, FPS Health, Food chain and Environment, <https://www.health.belgium.be/nl/milieu/aarhusbe/de-toegang-tot-de-rechter-welke-rechtsvordering-welke-gevallen>

82 <http://www.minambiente.it/pagina/convenzione-di-aarhus-informazione-e-partecipazione>.

83 Citizens Information, Aarhus Convention and related agreements, http://www.citizensinformation.ie/en/environment/environmental_law/aarhus_convention.html

84 Lietuvos teismai, <http://www.teismai.lt/lt/visuomenei-ir-ziniasklaidai/aktuali-informacija-teismu-lankytojams/107>, <https://e.teismas.lt/lt/public/home/>

85 EPA, [Adgang til klage og domstolsprøvelse](#)

86 Bundesministerium für Digitalisierung und Wirtschaftsstandort, [Unternehmensserviceportal](#)

87 Démarches et Procédures, Conseil d’Etat, <http://www.conseil-etat.fr/Conseil-d-Etat/Demarches-Procédures>

88 Mes démarches, CADA, <https://www.cada.fr/particulier/mes-demarches>

rights. For general information about access to justice, the general government information website ‘**Service public.fr**’ contains the necessary information.

Judicial training

There is a **Judicial Training Board** in **Finland** that plans and coordinates, jointly with the Ministry of Justice and courts, the training of the staff involved in applying the law at the courts (traineeships and supplementary training). Moreover, court staff are welcomed to participate in the training programme concerning the prevention of environmental crime⁸⁹.

A further interesting practice is the **training of judges in environmental topics in Spain**. Different training courses, sometimes using concrete cases (e.g. ‘water theft’ in Andalucía, a region with significant water scarcity issues and strong competition for the resource) have been offered to judges to improve their capacity in environmental topics. While this can be considered good practice, the implementation of this training could be further increased, as it is currently only reaching a relatively small number of judges.

In **Portugal**, **innovation and technological means are used to facilitate access to justice**⁹⁰ (online portals for data-sharing purposes)⁹¹, and to enable human resources to cope better with environmental law challenges⁹². The Centre for Judiciary Studies (Centro de Estudos Judiciários, CEJ⁹³) provides a course (“*formação contínua*”) in environmental topics⁹⁴ for magistrates.

Lithuanian and **Latvian** judges undergo compulsory in-service training. Among the topics for the Lithuanian judicial authorities on environmental issues.

Corruption

The **Lithuanian** Ministry of Environment has addressed transparency issues and corruption risks, and implements a comprehensive program for fighting corruption. The website of the ministry contains a special “Hotline” section on its home page, which provides information on how to submit a complaint about an environmental damage or corrupt behaviour of government officials. All public inquiries and complaints are handled using the One-Stop-Shop principle.

The General Directorate for Environmental Protection of Poland and Bulgarian Ministry of Environment and Waters have a dedicated e-mail address where citizens can report environmental corruption issues⁹⁵.

89 Feedback from Member State reviewer, 14.11.2018.

90 O que é o Acesso ao Direito e aos Tribunais?, Ordem dos Advogados, <https://portal.oa.pt/cidadaos/acesso-ao-direito/>

91 Dados e informação públicos, XXI Governo Constitucional, <https://www.portugal.gov.pt/pt/gc21/area-de-governo/justica/iniciativas-e-medidas/gc21/outras-informacoes/justica/aumento-e-qualificacao-de-recursos-humanos.aspx>

92 Aumento e qualificação de Recursos Humanos, XXI Governo Constitucional, <https://www.portugal.gov.pt/pt/gc21/area-de-governo/justica/iniciativas-e-medidas/gc21/outras-informacoes/justica/aumento-e-qualificacao-de-recursos-humanos.aspx>

93 Centro de Estudos Judiciários, <http://www.cej.mj.pt/cej/home/home.php>

94 Centro de Estudos Judiciários (2018), Plano de Atividades 2017/2018, p. 34, http://www.cej.mj.pt/cej/conheca-cej/fich-pdf/docs-pub-legal/2017/Plano_de_atividades_2017_2018.pdf

95 Działania antykorupcyjne, Generalna Dyrekcja Ochrony Środowiska, <http://bip.gdos.gov.pl/dzialania-antykorupcyjne>

3.3.8. Overall results on the access to justice questions for which we categorised performance

An overview of the categorisation of performance is shown in Figure 14. Further information on the criteria, and more detail on how they were applied, is provided in Annex 5. As mentioned earlier, these overviews allow for a quick and synthesised access to the results of the study but should be treated with caution given the methodological particularities and existing data constraints.

Estonia, Greece, France, Lithuania, and Sweden were assessed as having the highest overall performance in the access to justice issues covered by the questions we categorised. Bulgaria, the Czech Republic, the United Kingdom Finland, and Poland are assessed as having more challenges in this area. **Poland** had a low assessment on a broad range of access to justice questions, on the basis of our criteria, particularly on the availability of transparent information on access to justice, and on legal standing issues. The **UK**, while it was assessed well on legal standing issues, nevertheless has gaps in terms of public information on access to justice, and significant weaknesses on the costs of access to justice. **Finland** was also assessed as having gaps in the provision of public information on access to justice, and on the effectiveness of legal remedies available to the courts.

Figure 14: Overview of performance categorisation on Access to justice



3.4. Compliance assurance and accountability

This section relates to the concept of environmental compliance assurance, which is explained in detail in a 2018 Commission Communication⁹⁶ and associated Staff Working Document⁹⁷. In essence, the concept covers “public enforcement”, as distinct from access to justice for the public and civil society organisations, which is covered in section 3.3 above. We looked at three classes of intervention that authorities undertake to ensure that economic and other activities comply with environmental rules: promotion, monitoring and enforcement. The environmental compliance assurance authorities considered are those listed in the Commission Communication⁹⁸. Also of value as a reference is a 2017 Commission study on how to evaluate Member State compliance assurance systems⁹⁹.

*This section of the report is organised along four major aspects of compliance assurance (3.4.1) **preventing** compliance problems on the ground involving businesses in particular (3.4.2) **discovering** them (3.4.3) **taking enforcement action** and having (3.4.4) **good working arrangements** within and between compliance authorities. Information from questions on complaint handling and accountability is included below in sections 3.4.2 – 3.4.4. It should be noted that the Environmental Governance Assessments themselves are organised around the themes identified in the framework assessment described in section 2.1 above; we have included references to the relevant sections in the EGAs.*

Our research noted significantly different approaches in the provision of information to businesses on how to comply with environmental obligations, with some good practice, alongside a number of examples where Member States appeared to be failing to provide accessible information appropriate to the audience. The public availability of information on planning of inspections was also varied, as was the level of reporting on follow-up to cases of non-compliance; and it was particularly noticeable that information on the follow-up to breaches of cross-compliance conditions for agricultural subsidies was rarely available.

3.4.1. Preventing compliance problems

A major part of preventing compliance problems involves helping businesses and others to comply with relevant requirements of EU legislation through providing advice and other means. These efforts of the Member States are referred to as ‘compliance promotion’ in the governance assessment (section 3.4.1 of the assessment templates) Compliance promotion can take the form of guidance, ‘frequently asked questions’, help-desks and is increasingly reliant on online tools and information sources.

Agriculture has the potential to place pressure on environmental issues such as water resources and the fragile state of nature in the countryside; and in many Member States also poses compliance assurance challenges because of the number of small, family-run businesses in the sector. We therefore chose to examine how Member States provide online information to help farmers understand and comply with rules on nitrates and on biodiversity protection.

96 Reference is made to Communication of the European Commission on EU actions to improve environmental Compliance and governance [COM\(2018\)10 final](#)

97 Staff Working Document [SWD\(2018\) 10 final](#)

98 COM (2018) 10, p. 8

99 [Towards an improved assessment of environmental compliance assurance](#) (COWI 2018)

Most Member States **provide online information of some sort on the Nitrates¹⁰⁰, the Birds and the Habitats Directives¹⁰¹**. This information is, however, mostly not target-group specific but more general, or simply reproduces the applicable national laws and ordinances. In many cases the information provided lacks practical guidance on how to implement the rules. In some Member States¹⁰² **information is dispersed in websites and brochures of several ministries** and other institutions and thus not easily accessible. This can partly be explained by administrative structures, especially when it comes to federal structures with divided competences as regards the practical implementation of the obligations. Many Member States have established some form of intermediaries, such as farm advisory systems, nature conservation agencies or research institutes for agriculture, which sometimes offer the services of dedicated experts to be contacted via phone or e-mail in case of questions. In some Member States NGOs (Belgium) or specialised public institutes (Estonia, Italy) provide relevant and targeted information, e.g. practical measures that farmers must take in nitrate-vulnerable zones, with additional links on their websites.

3.4.2. *Discovering compliance problems*

Site inspections are still one of the key forms of monitoring for discovering compliance problems, and are required to be systematic for industrial installations (covering inspection planning and reporting). Some site inspections will result from complaints; mechanisms for handling complaints are addressed by a number of questions in the relevant section (3.4.2) of the Environment Governance Assessments. Apart from site inspections, other forms of monitoring are becoming increasingly important, including earth observation. Monitoring also includes police or other criminal investigations into environmental crimes.

This section explores the traditional ways of discovering compliance problems, mainly through environmental inspections and investigation of complaints from the public. New techniques include citizen science were also reviewed to the extent there is publicly available information.

EU environmental legislation requires planned inspections to take place for large industrial installations, which can be responsible for complex forms of air and water pollution and generate toxic waste streams. Inspections are to be the subject of reports. We looked at how open the Member States are about these inspection activities, in particular how transparent the Member State is in how it plans and reports on industrial inspections

Information about the planning of inspections required under Article 23 of the Industrial Emissions Directive is **provided online in most of the Member States**. In half of the Member States the planning is published and easily accessible online while a quarter of Member States do not publish planning of inspections as demonstrated in the figure below. However, **only a smaller proportion of Member States¹⁰³ give detailed information on the planned inspections** (such as operators and sectoral inspectors to be involved) that is easily accessible. As regards the reporting on the results of the inspections carried out the picture is similar: in general, reports about the inspections are published, but this is generally done as a part of overall annual environmental inspection reporting. These reports generally include limited information, mainly indicating the number of inspections planned and performed without providing details on the inspection results though the level of detail varies widely among the reports. A small

100 The Member States providing comprehensive and easily accessible information include: CZ, DK, LT, HU, PT, SK, SE, and UK

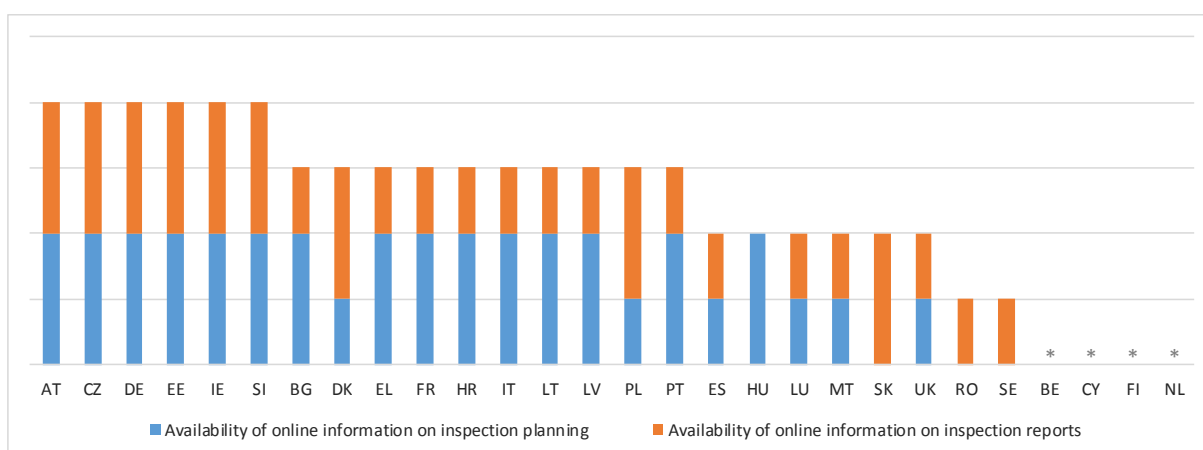
101 The Member States providing comprehensive and easily accessible information include: DK, EE, IE, IT, NL, and UK

102 BG, CZ, DE, EL, ES, FR, IT, LV, AT, PT, SK

103 BG, CZ, DE, EE, IE, ES, IT, LV, LT, AT

number of Member States (Denmark, Estonia), however, **publish quarterly reports with detailed information**, such as the installations and locations visited (name and registered activity), dates of inspection, types of sector-specific inspection performed as well as a brief result of inspection (if measures were prescribed, and if compliance was recorded and/or corrective measures implemented compared to previous inspection, but without qualitative descriptions). Information on whether site inspections resulted from complaints is rarely available; and where it is published, is in the form of general information in annual reports without giving details on the range and type of complaints); mostly this information does not seem to be available online.

Figure 15: Availability of online information regarding planning and reports under the Industrial Emissions Directive



* no data

Europe is developing space and other related technologies to help deal with the challenges society faces. This opens up possibilities for Member States to monitor what is happening on the ground from the sky. Thus we reviewed (section 3.4.1 of the Environmental Governance Assessments) the extent to which Member States are making use of earth observation as a means of identifying compliance issues.

As an **additional monitoring tool, earth observation and geo-spatial intelligence** is used in most of the Member States. However, it is mostly limited to specific environmental issues (such as cross-compliance control of agricultural land, i.e. for control of location, size and use of land, observation of land-use changes or control of sulphur and NO_x emissions from vessels) or specific cases. It is often **not completely clear how exactly the information gathered** is used in compliance monitoring. Additionally, in some Member States (such as Greece and Lithuania) publicly available internet mapping services are used to detect illegal buildings. Other Member States have rolled out mobile apps for compliance monitoring to municipalities and citizens, mainly focused on reporting of illegal waste dumps or illegal logging, problems with local infrastructure (roads, pavements) as well as other issues at municipal level. This seems to be a highly dynamic field with additional activities emerging on Member State level nearly on a monthly basis.

Effective mechanisms to enable members of the public to make complaints about environmental problems, and for those complaints to be properly addressed, can provide additional reinforcement to the implementation of environmental policy commitments, and to public confidence in environmental regulation. The questions we considered here relate to a specific action referred to in the Commission Communication and outlined in more detail in the Staff

Working Document. Two dimensions of complaint-handling were addressed: first, complaints to public authorities about environmental problems that the authorities are asked to deal with, e.g. odour or noise nuisances or harm to a Natura 2000 site; second, complaints about public authorities' alleged failure to fulfil environmental tasks, often made to national ombudsperson offices.

The citizens provide eyes and ears as to what is happening to the environment. They can let authorities know when things go wrong, helping them to intervene. At the same time, citizens are entitled to expect that authorities will take care of the environment. We assessed (in section 3.4.2 of the Environmental Governance Assessments) how easy it is to make a complaint on nuisances or a complaint on administrative failures. We assessed the degree to which the Member State is helpful in explaining online how citizens can make environmental complaints, including guarantees the complainant can expect from the authorities in handling the complaint.

Member States **provide online information on how to complain about environmental problems**. In more than two thirds of the Member States¹⁰⁴ **information provided on whom to address and how is easily accessible and clear**. This finding is true for both dimensions we examined (complaints about environmental problems, and complaints about the administration) as demonstrated in the bar chart in Figure 16. In half of the Member States, there are targeted information initiatives and awareness raising activities for citizens on the possibility to submit complaints on environmental issues.

Generally, several communication channels are offered, with a single phone number and e-mail address being the most common ones. A few Member States authorities¹⁰⁵ are also accessible via Facebook or Twitter accounts. In Member States with a federal structure the accessibility and the level of guidance given to citizen to file a complaint varies from state to state. As a general rule, complaints submitted to an authority which is not competent in the relevant matter will be passed on to the responsible body. **Out-of-office-hours phone numbers are often provided** for emergency cases. In some Member States¹⁰⁶ environmental NGOs provide (additional) options for providing information, or assistance in submitting complaints. Guarantees that complainants can expect in terms of the public authority's handling of the complaint, such as response times, following steps or preserving anonymity, are only rarely stated explicitly. In some Member States¹⁰⁷ links to relevant legislation are provided, and in some Member States¹⁰⁸ there is a complete lack of information on such guarantees online.

104 BE, CZ, DK, DE, IE, ES, FR, HR, CY, LT, LU, MT, NL, PL, RO, SI, SK, SE, UK

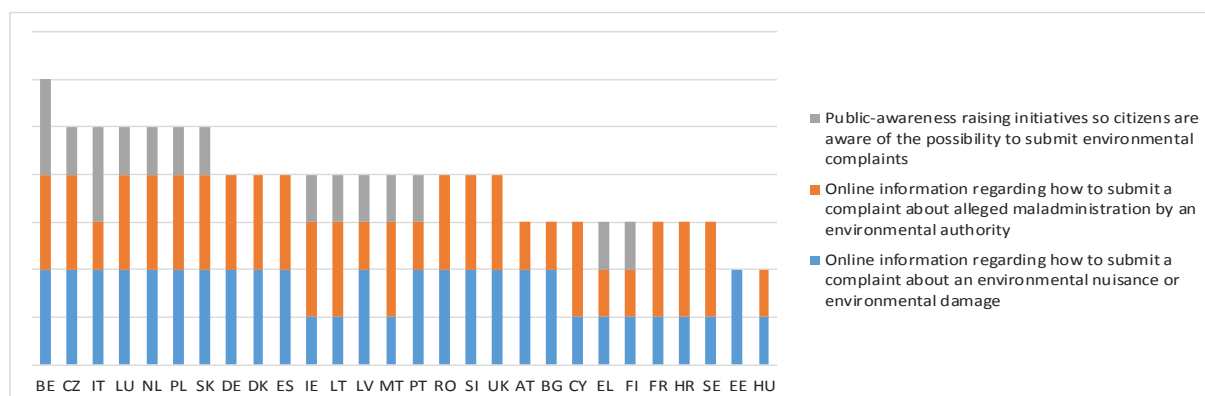
105 HR, LT, LV, LU, MT, PT

106 EL, HR, HU, NL, RO

107 IE, LT, LU, PL, RO, SI, SK

108 EE, EL, ES, IT, MT, FI

Figure 16: Information regarding citizen submission of environmental complaints



In 10 of the Member States there is periodic reporting on complaints received including details on complaint handling and statistics on the outcomes of the complaints for both dimensions, complaints on environmental damage and alleged maladministration by environmental authorities (see Table 12). In 8 of the Member States relevant reporting is either not public or not prepared. In the remainder of 10 Member States there is some concise reporting available without providing details on complaints follow up or relevant statistics.

Table 12: Availability of periodic information on complaints handling

Periodic reporting including statistics and results	Some reporting available, without details and statistics	No publicly available reports
DK, IE, HR, LT, PL, PT, RO, SI, SK, SE	BE, BG, CZ, EL, ES, CY, LV, LU, MT, SK	DE, EE, FR, IT, HU, AT, FI, UK

In 26 of the Member States there is an institution with the functions of a general ombudsman which also handles environmental complaints. These institutions include, for example, an Ombudsman for human rights, a parliamentary ombudsman, chancellors for justice, commissioners and mediators. Only in Malta is there a specialised national level environmental body – the environmental commissioner, while in Austria, at the level of the regions, there are environmental ombudsman offices. In several Member States, information commissioners deal with environmental information cases; we identified such institutions in Croatia, Ireland, and the UK, although since the issue was not addressed systematically in our questions it is possible that other examples exist. All the Member states produce annual ombudsman activity reports; these reports provided reasonably detailed information on environmental cases handled for 21 Member States, as shown in Table 13

Table 13: Availability of ombudsman office annual reports on activity

Reports including numbers, subject matters, and results of investigations	Report available, but does not provide detailed information
BE, BG, CZ, DK, DE, EE, IE, EL, IT, CY, LV, LT, LU, MT, NL, AT, PT, RO, SI, SK, SE	ES, FR, HR, HU, PL, FI, UK

Citizen science makes it easier for Member States to get useful scientific and other information from the public. We also looked (in section 3.4.2 of the Environmental Governance Assessments) at citizen engagement, by focussing on the use of “citizen science” approaches to obtain useful information from the public.

The Commission has recently published a research report carried out for its Joint Research Centre¹⁰⁹, which includes examples of citizen science use in a range of Member States, but which was not available at the time our assessments were carried out. The inventory it sets out is dominated by monitoring and reporting projects on nature and biodiversity projects; with some projects monitoring other natural resources (e.g. air, water, soil), but very few projects were related to resource issues (i.e. resource efficiency, sustainable production and consumption, waste).

In nearly half of the **Member States, information about some kind of citizen science activities** is publicly available. In some Member States¹¹⁰ public authorities actively encourage the submission of data on environmental issues by environmental NGOs and individuals. Examples include the nature protection sector where **nature protection NGOs are engaged in data collection and inventorying of species** and habitats for the purpose of establishing the Natura 2000 network or drafting of national biodiversity strategies. In other Member States¹¹¹ citizens are encouraged to measure air or water quality or to report environmental damage. In some Member States¹¹² it is clear how the data collected is used, but in other Member States¹¹³ these citizen science activities do not (yet) seem to be part of an overall strategic approach, and it is not clear if and how the data is used.

Public-awareness raising initiatives with the specific objective of making citizens aware of the possibility to alert or inform the authorities about facts likely to cause environmental damage, or which seem non-compliant with environmental law provisions, or which otherwise help the authorities to fulfil their responsibilities by public authorities, **are rare**. Most of these initiatives target informing the public about the applicable legislation and the progress of certain projects rather than means through which environmental infringements can be reported to the competent authorities. **However, in some Member States** (Croatia, Greece, Latvia) **such awareness raising initiatives are organised by environmental NGOs**, often combined with assistance provided on where and how to submit complaints.

109 Bio Innovation Service, “[Citizen science for environmental policy: Development of an EU-wide inventory and analysis of selected practices](#)”, report for European Commission, November 2018

110 BE, DK EE, HR, IT, LV, LT, MT, PT, SE

111 BE, IE, LT, NL

112 BE, EE, IE, IT, LV, SE

113 BG, DE, ES, MT, PT

3.4.3. Enforcement action

When monitoring identifies problems, a range of responses may be appropriate. Of particular interest under this sub-section is published information on the issuing of warnings, the application of sanctions and achievement of compliance after follow-up measures and enforcement action has been taken.

Compliance problems cannot always be prevented. Important problems may be discovered, including environmental crimes like illegal landfilling or persecution of rare birds of prey. Follow-up and enforcement are then what matter. We tested if Member States are publishing the outcomes of industrial inspections in terms of enforcement actions and follow up to detected non-compliance.

In about one third of the regular surveillance/activity **reports detailed information on follow-up measures to detected non-compliance and enforcement actions** is included and available online¹¹⁴. In some Member States, with federal or regional structures¹¹⁵ the **annual activity reports prepared differ widely between regions in both format and level of detail** regarding the outcomes of environmental inspections. Instead of specific qualitative information on the measures taken, at least one Member State (Croatia) uses colour-coding related to the measures and whether there was an improvement in relation to a previous inspection.

The majority of Member States publish statistics on the prosecution of environmental crimes and their outcomes. However, only in a few Member States¹¹⁶ do the statistics published include detailed data about the subject matter of the respective investigated crime against the environment.

*Legislation on **environmental liability** at EU level aims at ensuring that the “polluter pays” principle is applied in practice, by ensuring that economic operators are held liable for the environmental damage that they cause. Effective implementation of the Environmental Liability Directive should contribute to better integration of environmental risks into business decision-making. Section 3.4.3 of the Environmental Governance Assessments summarises the main findings from a parallel research project¹¹⁷ in relation to each Member State on the basis of the document “Implementation of the ELD. These documents are planned to be published through the ELD information system¹¹⁸ by mid-2019.*

In most of the Member States there is **no registry or central database where data on environmental incidents or ELD cases** is collected, however, in general information on environmental incidents is made available to the public. No information seems to be available at Member States levels about the number or type of financial security instruments available on the market for ELD liabilities or the number of insurance instruments that cover liability under ELD available on the market. Most Member States have not established legislation requiring mandatory financial security.

114 BG, DK, IE, EL, HR, IT, LV, MT, RO, SI, SK, SE, UK

115 DE, ES, FR, LT, PL

116 FR, HR, IT, PL

117 Outcome of the Specific Contract “Support for the REFIT actions for the ELD – phase 2” (No 07.0203/2017/771706/SER/ENV.E.4)

118 Accessible through <http://ec.europa.eu/environment/legal/liability/index.htm>

3.4.4. Good working arrangements of compliance assurance authorities

Many different authorities are involved in environmental compliance assurance. Within Member States, co-operation may be especially important in the investigation and follow-up to serious environmental crimes, with inspectors, police and prosecutors needing to co-operate. Co-operation can be challenging; but can be facilitated by, for example, memorandums of understanding or internal practitioner networks. The details of the administrative challenges are specific to each Member State; but all can potentially benefit from the exchange of good practice. At European level, practitioner networks have been created to promote good practice. The oldest practitioner network, IMPEL, covers all EU-28 and, amongst other things, carries out peer reviews, which are addressed by questions under section 3.4.1 of the assessments. Training (which is covered by questions in section 3.4.2 of the assessments) is also an important component of effective compliance assurance.

Information on cooperation in the Member States, **especially in the investigation and follow-up to serious environmental crimes, is difficult to find online**. In most of the Member States only limited information could be found on formal or informal cooperation. However, it is evident from several annual reports and Member States' input that such co-operation exists. As a general rule, in most of the Member State inspectors in the different environmental fields **can cooperate with the relevant legal instances and can ask the police and tax and customs boards to join in inspection visits** when they need assistance.

Two thirds of the Member States participated as a host or a visitor in IMPEL peer reviews, while the remaining Member States reportedly did not take part in the relevant IMPEL activities.

Member States are encouraged to ensure regular ongoing training an important component of effective compliance assurance¹¹⁹ for industrial inspectors, Natura 2000 site inspectors, Nitrates inspections and environmental crime practitioners. Training programmes for compliance assurance authorities seem to exist in most of the Member States. However, information available online suggests that only some areas of environmental law are covered regularly. Training courses are organised more on the basis of specific needs and upcoming issues and often depend on the availability of (EU-funded) programmes, such as IMPEL activities under the expert team "industry and air", or on online guidance as training material for permit writers and inspectors.

3.4.5. Good practice examples on compliance assurance and accountability

This overview of good practices is a non-exhaustive list based on the individual country assessments. For more details and links to more background material for all these good practices, please refer to Annex 6.

Preventing compliance problems

In Denmark, **detailed information is available for farmers with regard to their obligations** related to fertilizer use and manure storage in nitrate vulnerable zones including pdf guides to specific rules and geographic designations. The same is true for landowners regarding their obligations relating to Natura 2000 sites. The information is available in different places depending on the status and type of land, but can be accessed through a designated website of the Ministry for Environment and Food.

119 See Staff Working Document [SWD\(2018\) 10 final](#), Annex 1, Action 2.

In Bulgaria, the Territorial District Offices **regularly organise information events for farmers and stakeholders**, including topics related to Good Agricultural Practices, with a total of 235 events for the period 2016-2017, in which more than 6000 farmers took part.

In Hungary, information about obligations is given **mainly on the website of the Hungarian Chamber of Agriculture**, which provides user-friendly handbooks on a number of issues including cross-compliance and the Nitrates Directive. These handbooks explain the relevant regulations in an easily understandable way and provide very useful case examples. A summary of key points and link to the handbooks is also available on the website of the Hungarian Paying Agency (i.e. Hungarian State Treasury).

In the United Kingdom, **clear, well-structured, and easily understandable information for businesses and individuals** on how to comply with their environmental obligations is provided. Information can also be accessed via the Farm Advice Service, which provides free advice, including online advice, to farmers and land managers on how to meet the cross-compliance requirements for payments under the Common Agricultural Policy. The cross-compliance guidance for 2018 sets out in clear terms the requirements on farmers for compliance with nitrate vulnerable zones.

Compliance monitoring

In Bulgaria, **integrated, transparent and participatory inspections are carried out with well-functioning coordination** between the responsible authorities and clear distinction of the functions and powers. The planning of inspections under a set of legal acts is made publicly available with a single entry point to this information, making it easy to locate and review. The programme of inspections is developed on a quarterly basis. Approximately 60 per cent of the inspections are scheduled. The frequency of checks is based on risk assessment of the subjects under control. The Regional Inspectorates for Environment and Water (RIEW) publish monthly reports on their controlling functions as well as many of the inspection reports themselves.

In Croatia, **the ENVI portal of the HAOP-Croatian Environment and Nature Protection Agency provides geospatial data** on the distribution of emissions, mobile and immobile emission sources, habitats and Natura 2000 sites, illegal dumpsites in speleological objects, waste management facilities and disposal sites and a national air quality network with live air quality data from more than 50 stations across the country. These are all accessible at the HAOP homepage and, among other purposes, the inspection services use the data in the preparation for individual site visits. In addition, an Information Commissioner was established in 2013 as an independent compliance monitoring mechanism that checks and reports on transparency of governance, handles second-instance appeals in citizen complaints against governmental infringement of the right of access to information, informs citizens of their rights, proposes legislation and conducts capacity building actions for improving access to information procedures of public authorities. The Information Commissioner website provides clear instructions on procedures for exercising right of access to information, obligations of authorities, as well as overview of the related administrative decisions and legal practice.

In Estonia, as regards the planning of inspections the **website of the Environmental Inspectorate includes the plan for 2016-2018**. The timeline is indicated with six months accuracy. The Ministry of Environment hosts detailed information about Industrial Emissions on its website. This includes easy to access and understandable data on all installations subject to the Industrial Emissions Directive, pdf copies of all permits, amendments to permits and all inspection reports.

In Slovakia, **an application for the monitoring of illegal waste activities is available on the website of the Ministry of Environment**. In addition, citizens can report corruption and violation of laws in nature conservation or report illegal landfills.

Follow-up and enforcement

In addition to the general Ombudsmen, **Austria has Environmental Ombudsmen** that can initiate proceedings and help to enforce environmental law.

In Slovakia, **the number and range of complaints received by the inspection authorities can be detected with the option to filter** the inspections according to a received complaint by the inspection activity, e. g. for a complete year.

Cooperation on and training in compliance assurance

The Ministry of the Environment and the Ministry of the Interior set **up a working group in 2014 to assess the cooperation between national authorities on environmental crime**. The working group finalised a National Environmental Crime Prevention Strategy for Finland. According to the strategy, Action Plans will be renewed every second year. One of the measures in the action plan resulted in the creation of regional working groups, consisting of the relevant authorities in the field of environmental crime prevention. There are one to three co-operation/working groups within each police district, consisting of officials from several organisations. There are 17 regional co-operation groups across the country.

In Latvia, **formal cooperation agreements to effectively fight environmental crime**, exchange information and ensure training have been signed by the Nature Conservation Agency and the Municipal Police of Riga, the Customs Board and the State Environmental Service.

In Hungary, **the nature conservation website indicates that rangers cooperate with the police, including sharing local knowledge and technical equipment**. Other identified examples include cooperation between the police and forest managers (e.g. in the context of illegal logging and hunting) as well as between local municipalities and police to prevent/handle illegal dumping. The HELICON LIFE project is a more specific example, which brought together various stakeholders, including national park directorates, police, vets and hunters, to fight bird crime. As part of the project, an investigation protocol was produced and hunters and police officers were trained.

In Poland, a remarkable example of cooperation between different compliance assurance authorities is the LIFE Project **“You have right to effective protection of nature”**. **The project is aimed at different target groups**, including the police, prosecutions offices, General and Regional Directorates for Environmental Protection and other units. One of the aims of the project is to improve the coordination of activities of bodies involved in environmental law enforcement. The project envisages inter alia 32 trainings for investigative authorities (in 2018) and 32 trainings for the administration of justice (in 2019), awareness raising campaigns and e-learning courses.

Complaint-handling (1): complaining about environmental issues or non-compliance

In Austria, Vienna has launched an **App in 2017 that enables citizens to file complaints** that can also be used in the area of environmental protection.

In France, the **procedure to submit a complaint on an environmental matter is straightforward**, especially regarding classified installations and to the ombudsman. In 10 regions, the "Nature sentinels" programme developed by France Nature Environnement allows citizens to flag an environmental complaint or positive environmental initiative on their

smartphone. These reports are then handled by the regional coordinator to decide whether they can be made public or whether further information or verification is needed. Depending on the seriousness of the issue, the FNE may then contact the liable party to identify a solution, transmit the information to the relevant authorities, or take the matter to court. Citizens can then follow in real-time how the warnings are taken up by decision-makers.

In Germany, the "**Brandenburger Märker**" is a good example of an easy accessible and transparent system to deal with complaints at local level.

In Greece, in the region of Crete, **two Environmental Law Observatories** started operating in early 2017, aiming to assist citizens in filling complaints on environmental degradation cases and/or violations. In the framework of the project "Life Natura Themis" a smartphone application has been developed, allowing citizens to report anonymously incidents of environmental violations (including photos). This material is forwarded to the Hellenic Association for the Protection of the Nature, who forwards the complaint/report to the responsible authority.

In Malta, **it is easy for citizens to file a complaint. In the case of ERA**, this can be done via an email to a specific address, or by phone. A simple form on the Servizz website also allows complaints to be filed either with an ID card number or anonymously, whilst complaints to the Ombudsman can be lodged online, by letter (based on a downloadable form) or by email.

In Poland, **a step-by-step guide indicates that once a complaint has been made, the complainant will be informed, what will be the way the complaint will be handled and in which timeline.** It is also indicated that the citizen has a right to contact the clerk handling the complaint to find out about the development in the case. The guide also gives the information that the complaint should be handled as soon as possible, no later than within a month.

Complaint-handling (2): complaining about the administration itself

In Belgium, **the central online information point** on implementation of the Aarhus convention holds a lot of relevant and easy to navigate information and especially information by individual agencies on how to file complaints against the administration itself.

In Cyprus, **the Commissioner for Environment has specific powers to review the decisions** of public authorities in the environmental field. In addition, the Commissioner for Administration and Human Rights provides an alternative route to environmental litigation by examining complaints about instances of maladministration when administrative authorities apply environmental legislation.

The **Greek Ombudsman has a dedicated team of investigators** responsible for cases of maladministration on behalf of national authorities on issues related to environmental and urban planning legislation. The investigators also handle cases of illegal interventions in environmentally protected areas, environmental permitting of activities and industries, the process of characterising forest land, designation of sea shore and beach line, environmental permitting, construction and operation of infrastructure projects, illegal construction, placement and operation of mobile phone antennas, problematic operation of food premises, long term liens on private property, protection of cultural heritage or access denial to environmental information.

Use of citizen science

In Romania, **citizen science is employed in safeguarding the country's forests**. The Forest Inspector is a tool developed and successfully implemented that collects information from citizens based on voluntary contribution. Data is then used in the decision-making process regarding protection of forests. Also on citizen engagement, the National Environmental Guard recently launched the INCOLAB that is a mobile application to report cases that might affect protected habitats or species to authorities, which includes the map of two protected area located in the Danube area as well as information on the species of these areas.

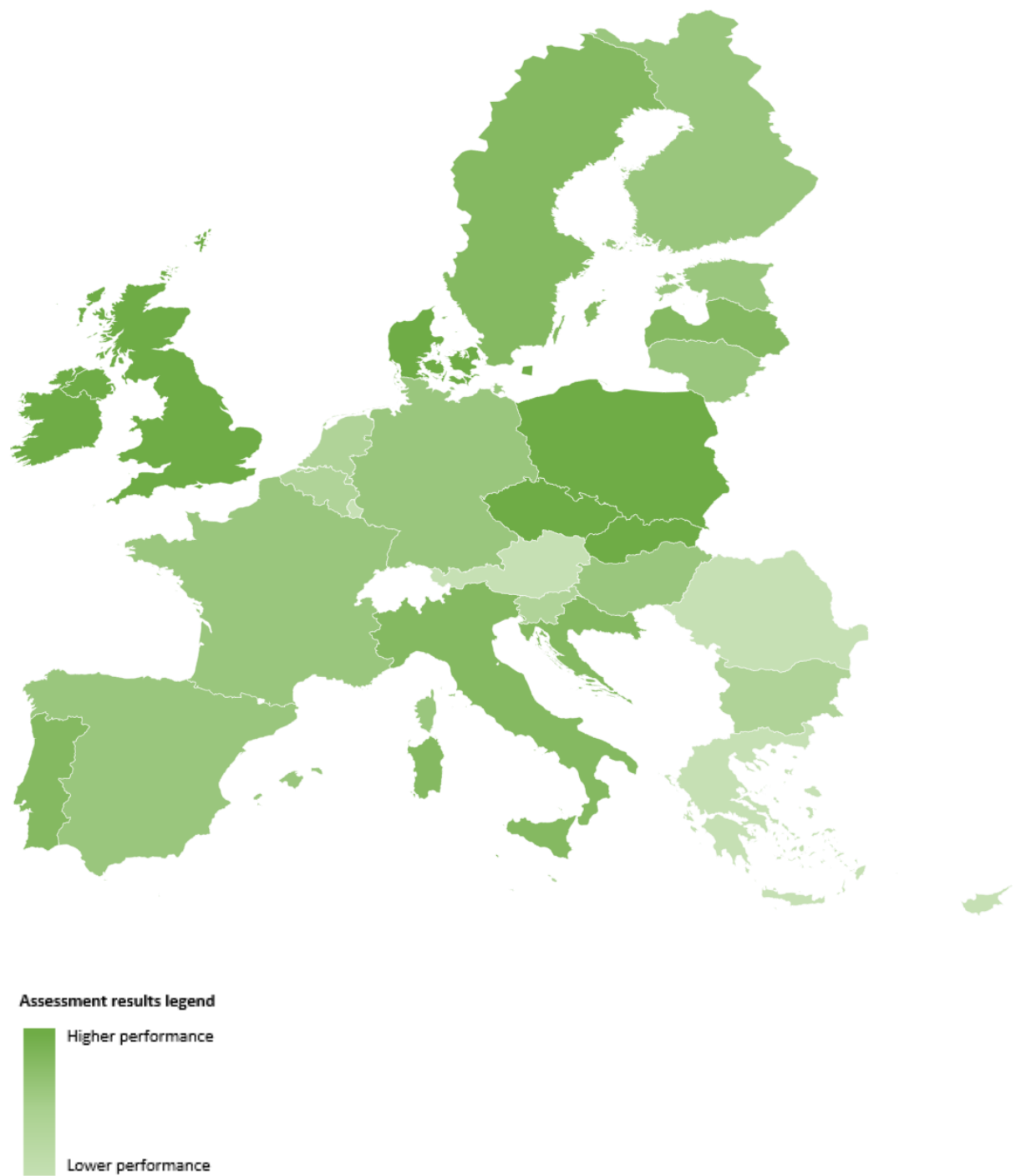
3.4.6. Overall results on the compliance assurance questions for which we categorised performance

An overview of the categorisation of performance is shown in Figure 17. Further information on the criteria, and more detail on how they were applied, is provided in Annex 5. As mentioned earlier, these overviews allow for a quick and synthesised access to the results of the study but should be treated with caution given the methodological particularities and existing data constraints.

Ireland, the United Kingdom, Denmark, Slovakia and the Czech Republic were categorised as having the highest overall performance in the relevant questions in the area of compliance assurance and accountability. Greece, Austria, Luxembourg and Cyprus were assessed as having more challenges in these areas.

Cyprus scored poorly on most of the questions assessed. Again, this may reflect the fact that the Cyprus assessment relies exclusively on publicly available sources. However, it seems clear from the publicly available information that there are significant gaps particularly in relation to demonstrating to the wider public the action being taken by the public authorities. **Luxembourg** was assessed poorly particularly on the availability of public data on compliance assurance, and on the use of citizen science. **Austria** also scored poorly on these issues, and also on the use of geospatial data and earth observation in compliance assurance. **Greece** also scored weakly on the provision of compliance assurance data.

Figure 17: Overview of performance categorisation on Compliance assurance



3.5. Effectiveness and efficiency

This dimension covers a wide variety of issues, and is also relevant to a number of the other dimensions; in it, we looked at how well resources (financial, material, and human) are used in delivering environmental objectives, including by considering mechanisms for ensuring that environmental issues are addressed in other areas of administration and policy. The issues we investigated under the Effectiveness and Efficiency dimension are closely linked with and relevant to the other four dimensions in the assessment; particularly dimension 3.2 on participation. Our assessment does not aim at a comprehensive and economically based analysis of the efficiency of environmental policy-making and implementation in the Member States, which would require a significantly greater research effort. Rather, we have identified a number of issues related to effectiveness and efficiency where data could be expected to be available, or was already available from previous research or statistical reports.

Several Member States appear to be making progress on implementing online portals and one-stop shops, which can help to address problems associated with dispersed government responsibility for environmental issues. While many Member States in principle have in place systems for regulatory impact assessment which integrate environmental issues, effective practice in this area seems to be much rarer. A number of Member States have chosen not to introduce an overarching strategy on environmental policy and its implementation.

3.5.1. Enabling financing and absorption of funds

Our questions under this theme look at the use of public funding mechanisms in the Member State, focussing first on the use of European Structural and Investment Funds for environmental objectives, but also considering whether Member States have introduced mechanisms to direct funds from environmental taxes and charges towards environmental delivery (it should be noted that there is not necessarily a “right” approach here – for example, if environmental administrations are already well-funded from general tax resources, there may be less need for earmarking of funds in this way). In addition, we considered the progress the Member State had made in implementing Green Public Procurement, which can be an effective way of using the purchasing power of public authorities to encourage a shift in supply of sustainable goods and services.

Absorption of available funds for environmental investment

Most Member States **encourage the absorption of available funds by providing information about funding opportunities**¹²⁰. The methods to provide the information vary, but almost all Member States include this information on websites. Other methods to spread the information is used, such as trainings, newsletters or information on TV and radio. One example is the Austrian Federal Ministry of Sustainability and Tourism, which issues the magazine ‘Ökoprojekt’ with information on public funding of environmental initiatives twice per year

120 BE, BG, DK, DE, EE, IE, ES, HR, IT, CY, LV, LT, LU, MT, AT, PL, PT, SI, SE, UK

through the Kommunalkredit Public Consulting GmbH¹²¹ and provides information on funding available from the EU Structural funds on its website¹²².

Some Member States have centralised environmental funds, which makes it easier to access information about the funding opportunities and might simplify the application processes. One example is Slovenia, which has established a specialised Eco Fund¹²³, with the main purpose to promote development in the field of environmental protection. The Eco Fund is the only specialised institution in Slovenia that provides financial support for environmental projects and the financial assistance is offered mainly through soft loans from revolving funds and since 2008 through grants.

In addition to providing information about available funding and centralises funds, some Member States have **gone one step further to encourage absorption of funds** for environmental investments, such as green obligations or labels. One example is France, where a label for green growth crowdfunding has been developed ('Label de Financement participatif pour la croissance verte')¹²⁴. The label is used to identify projects that contribute to the energy and ecological transition.

For a few of the Member States, no information was found in relation to the encouragement of the absorption of available funds. There may still be non-public communication from the authorities to relevant actors; although this would create a clear risk of bias in the allocation of funding. It would seem clear that it a more effective and transparent use of the available funds would result from encouraging a wide range of projects and project sponsors.

Earmarking of funds for environmental protection

There is **no clear trend of earmarking of funds** being collected through fiscal and market based instruments for environmental protection across Member States. **Most Member States have some systems in place to raise funds through environmental taxation or charges**, but the sectors these cover, as well as if, and how, these funds are earmarked, varies.

Table 14: Availability of periodic information on complaint handling

Earmarking of a number of environmental taxes	Earmarking only of some environmental taxes	No earmarking of environmental taxes, but earmarked fees and charges	No earmarking (treated as part of general budget)	No information
CZ, IE, FR, IT, HR, LT, SK	DE	BG, EE, (green bonds), HU, LU, NL, AT, PL, FI UK	DK, EL, CY, LV, RO, SE	BE, ES, MT, PT, SI

121 Ministerium für ein Lebenswertes Österreich, (2017), Ökoprosjekt-Das Fachmagazin für Umweltförderungen- Schwerpunkt Klimafreundliche Mobilität, issue 1/2017, Wien: Kommunalkredit Public Consulting GmbH, https://www.umweltfoerderung.at/fileadmin/user_upload/media/publicconsulting/O__koprosjekt_1-2017.pdf.

122 Bundesministerium Nachhaltigkeit und Tourismus. Allgemeine Förderung <https://www.bmnt.gv.at/ministerium/publizitaets/allgem-foerderung.html>

123 Eco Fund, <https://www.ekosklad.si/fizicne-osebe/nameni>

124 [Financement participatif pour la croissance verte](#), Ministry of Ecological and Solidarity Transition,

In one fifth of Member States, as shown in Table 14, including in Sweden and Denmark, the income from environmental taxes and charges is included in the general budget, which is then distributed across a number of areas, without earmarking.

In one quarter of Member States there are funds collected through fiscal and market based instruments in a number of sectors, and the funds are clearly earmarked for environmental protection. One example is the Czech Republic, where the most important national financial sources from which funding for the environmental is granted are environmental taxes managed by the State Environmental Fund of the Czech Republic¹²⁵; these include environmental taxes and fees such as tax on groundwater abstraction, fees for municipal waste and a tax on solid fuels.

In one third of Member States, such as Austria and Estonia, there is no earmarking of environmental taxes, but some of the environmental charges are reinvested into environmental protection. In Austria, income generated from resource use fees and the fees for environmental protection is earmarked for re-investment into the environmental sector. In Estonia the Environmental Charges Act¹²⁶ establishes environmental charges as the price for the use of environmental resources according to the act, revenues from environmental charges are divided between the state budget and the budgets of local municipalities (depending on the geographical location of the environmental resources used) by a ratio set in the Act. The majority of those revenues that are accumulated into state budget are earmarked for the Environmental Investment Fund in the level of charges that were applicable in 2009

Green public procurement

All Member States encourage green public procurement to some extent, although the measures and level of commitment vary. These **measures range from simply having national legislation in place to sectoral guidelines or targets for sustainable or green public procurement**, or in a couple of cases, simply sharing information about green public procurement. Some Member States have specific, sectoral strategies and targets for green public procurement, such as Ireland, where eight sectors have a green public procurement guidance document, prepared by the Environmental Protection Agency¹²⁷.

There are various efforts to promote green public procurement which go beyond the level of strategies and legislation. Some examples include Cyprus where there is a Green Public Procurement Awards¹²⁸ organized by the Department of Environment since 2014, the same department also maintains a specific webpage on green public procurement¹²⁹ and organises informative seminars¹³⁰, in an effort to spread good practice. Part of the National Agency for Public Procurement in Sweden, established in 2015¹³¹, is tasked with promoting green public

125 Ministerstvo životního prostředí, [https://www.mzp.cz/C1257458002F0DC7/cz/poplatky/\\$FILE/oedn-poplatky_dane_CR-20130918.pdf](https://www.mzp.cz/C1257458002F0DC7/cz/poplatky/$FILE/oedn-poplatky_dane_CR-20130918.pdf)

126 Keskkonnatasude seadus (Environmental Charges Act) 2005, <https://www.riigiteataja.ee/en/eli/521122017003/consolide>

127 EPA, (2014), Green Procurement, Guidance for the Public Sector, <http://www.epa.ie/pubs/reports/other/corporate/olg/GreenPublicProcurementfinalwebv2.pdf>

128 Cyprus Energy Agency, <http://cea.org.cy/en/anakinosi-diagonismou-cy-gpp-awards-2018/>

129 The Cyprus Department of Environment, <http://www.moa.gov.cy/moa/environment/environmentnew.nsf/All/9B99E4EB2CA7A90DC2257F64003CF378?OpenDocument>

130 The Cyprus Department of Environment, <http://www.moa.gov.cy/moa/environment/environmentnew.nsf/All/9C7C9A1085037117C22582900033A3D1?OpenDocument>

131 Regeringen (2014), [Budgetpropositionen för 2015](#), p. 39

procurement. The UK Government has developed Government Buying Standards that promote sustainable procurement. These are compulsory for central government departments and related organisations, which report annually on the processes they have in place to ensure compliance through the Greening Government Commitments¹³² and the use of the Buying Standards is encouraged for the wider public sector.

Some, but not all Member States share information on the percentage of public procurement which follows sustainability or green standards, and this percentage varies greatly. For the Member States who make the information available and measure the percentage of green or sustainable public procurement, it varies from 5.6% to 74%. It must be highlighted that the definition and calculation of sustainable public procurement and green public procurement cannot be equated and can vary between Member States.

3.5.2. Administrative capacity (environmental inspectorates, police, customs, prosecution services and audit bodies)

It is difficult to make a direct comparison of the resources allocated to environmental administration, because of the different size of Member States, and the different approaches to organisation of environmental issues (including through regional and local devolution). Our questions provide contextual information on the numbers of staff employed in environmental administrations; whether one-stop shop mechanisms are used to make services more accessible and efficient; and whether customs or public prosecutor services have dedicated environmental units.

Number of staff dealing with environmental matters

There are **no comparable data between Member States on the number of staff dealing with environmental matters employed in public institutions**. The reason for this is the different structures and levels of governance in the Member States. The number of staff dealing with environmental matters on a Ministerial level is not indicative of the number of staff generally dealing with environmental matters and so the answers cannot be compared and no conclusions drawn.

Those data on employment in the environmental administrations which are publicly available are incomplete and difficult to compare. However, some interesting quantitative and qualitative information emerged from the assessments which gives an insight about the significant diversity of situations.

Whilst no overall conclusions can be drawn, it is noticeable that the share of environmental administration staff is generally a very low percentage of the overall administration (general below 2% or often much less). Where there are trends, they generally show a decrease. E.g. in Germany, a significant evidence base exists from several studies that the administrative capacity has been reduced and weakened over the last 10 years. This appears to have affected the ability to implement environmental legislation effectively. One Federal State (Baden-Wuerttemberg) was particularly affected. Since 2006, the number of staff in the environmental sector had been reduced by 17% while the volume of required activities has increased. Partly in response to the findings of that study, the workforce of the environmental administration in Baden-Wuerttemberg was increased by a total of 225 jobs (+31 in municipalities) beginning in 2018.

132 UK Government, <https://www.gov.uk/government/collections/greening-government-commitments>

Finally, the comparability of statistics and data would improve significantly if all Member States followed an agreed methodology such as the COFOG¹³³ designation used by Eurostat and by some Member States already.

One-Stop-Shops for environmental issues

There is no uniform definition of what a “one-stop-shop” would entail but several Member States have some parts of such a system in place or are making efforts towards. Given the diversity of approaches and experiences, an exchange of good practices may be useful.

Only Bulgaria and Lithuania seem to have **implemented a one-stop-shop relating to environmental administration**. In the case of Lithuania, the Government introduced in 2007 the one-stop-shop principle into public administration generally. This obliges State and municipal institutions to follow this principle in serving individuals and examining their requests and complaints¹³⁴.

Of the remaining Member States, **half have no one-stop-shop mechanism for environmental administrations in place** and there seem to be no clear attempts to centralise environmental services and information across sectors and levels of governance.

The other half of the Member States have made clear attempts at centralisation, albeit falling short of a one-stop shop approach, usually in the form of one central webpage where many services and much of the environmental information is available. One example of this is the French “Tout sur l’environnement” information portal¹³⁵, which contains information related to air, water, biodiversity, soils, noise, risks and health, with links to websites with technical and legal information. Another example is the Irish Environmental Protection Agency’s online licensing system, which operates effectively as a one-stop shop for regulated entities, and for members of the public seeking information on the Agency’s regulatory responsibilities. Another attempt at centralisation is in Greece, where there are a few environmental related services where a one-stop-shop mechanism is applicable, such as in the case of licensing projects on renewable energy resources¹³⁶.

Dedicated units in customs authorities

Only two Member States, Italy and the Netherlands, have dedicated environmental units in their customs authorities. In Italy these are specialised units for the enforcement of the Convention on International Trade of Endangered Species (CITES) and in the case of the Netherlands there are focal points for environmental issues at the regional level. Some Member States have measures in place to ensure that there is capacity in the customs authorities to address environmental issues, such as the United Kingdom, where the UK National Wildlife Crime Unit, as a part of the Police, plays a role in assisting in the prevention and in the detection of wildlife crime, including through assistance to customs authorities.

133 “[Classification of the Functions of Government](#)”, the breakdown of Government expenditure by socio-economic function used by Eurostat.

134 Nakrošis, V. (2017), Support for developing better country knowledge on public administration and institutional capacity building (EUPACK), Report on Public Administration Reform Trends and Reform Dynamics in Lithuania, report prepared for DG EMPL of the European Commission, p. 10

135 Tout sur l’environnement, <https://www.toutsurenvironnement.fr/>

136 Ministry for Environment and Energy, Support Service for Investors in Renewable Energy Works <http://www.ypeka.gr/Default.aspx?tabid=546>

Dedicated units in public prosecution services

There are only seven Member States that have dedicated environmental units in the public prosecution services (to which the Ireland and UK systems, where prosecutions are brought directly by the environmental regulator, can be considered comparable in effect). There seems to be a correlation between the size of the country and the existence of a dedicated environmental unit as shown in Table 15 below. Some of the other Member States have some form of measures in place to ensure that there is adequate capacity in the prosecution services to address environmental issues or a system under which prosecution is taken forward by environmental agencies themselves. Examples of the former approach include Portugal, where several protocols have been established between the prosecution services and environmental authorities^{137,138}, and Finland where in practice, environmental crime cases are mainly distributed to prosecutors who have been specialized on environmental matters¹³⁹. **Most Member States do not have an environmental unit in the public prosecution services** and there seem to be no apparent attempts to ensure that there is knowledge and capacity to deal with environmental cases.

Table 15: Environmental units in public prosecutor offices

YES	Prosecutions handled by environmental regulators	NO	NO, but other measures to ensure coordination
DE, EL, ES, FR, HU, NL, SE	IE, UK	BE, BG, CZ, DK, EE, HR, CY, LV, LT, LU, MT, PL, RO, SI, SK	IT, AT, PT, FI

3.5.3. Inter/cross-sectoral coordination

Integration of environmental considerations into broader government action can be a powerful mechanism for improving outcomes. Our questions here looked at mechanisms for addressing the Sustainable Development Goals in the Member States, and at an independent think-tank's assessment of environmental performance.

Overall, coordination efforts and effectiveness are difficult to assess. The recent UN report on the “Environmental Rule of Law”¹⁴⁰ highlights that “*effective and efficient institutions depend upon coordination within that across institutions and sectors*”. It develops some methodological aspects and shows some case studies on cooperation. For any future work on assessing coordination efforts, these findings could be usefully taken as a starting point to develop a more systemic assessment of the effectiveness of the coordination methods in the Member States.

137 Assinatura de Protocolo com a IGAMAOT, Portal do Ministério Público, <http://www.ministeriopublico.pt/evento/assinatura-de-protocolo-com-inspecao-geral-da-agricultura-do-mar-do-ambiente-e-do-ordenamento>

138 Assinatura de Protocolo com a APA, Portal do Ministério Público, <http://www.ministeriopublico.pt/evento/assinatura-de-protocolo-com-agencia-portuguesa-do-ambiente-procuradoria-geral-da-republica>

139 Feedback from Member State reviewer.

140 “[Environmental Rule of Law: First Global Report](#)”, UN Environment, 2019

Table 16: Strengths and limitations of approaches to environmental coordination

	Strengths	Limitations
Enhancing hierarchical controls	<p>One institution bringing resources and focus to bear increases results and reduces regulatory underlap</p> <p>Easier to hold institutions accountable</p>	<p>Reduces information sharing and responsiveness</p> <p>Risk of abuse and politically determined decisions</p> <p>Less likely to produce comprehensive policies</p>
Promoting collaborative governance	<p>Organic and dynamic</p> <p>Produces more comprehensive understanding of issues and better solutions</p>	<p>Results in competition for power or failure to take responsibility</p> <p>Leaves stakeholders with no clear point of contact</p> <p>Resource intensive</p>

Source: Environmental Rule of Law – First Global Report, p 52

Integration of the Sustainable Development Goals

All Member States have taken some form of action following the adoption of the 2030 Agenda for Sustainable Development and the Sustainable Development Goals, but most of the strategies and work put in place seem to be a continuation of business as usual and little new funding has been allocated to the implementation. In some Member States there are new, cross-sectoral working structures put in place, such as inter-ministerial working groups and strategies. **Only one third of the Member States have dedicated additional funding to the implementation of the Sustainable Development Goals.**

26 EU Member States have submitted, or are in the process of submitting, Voluntary National Reviews to the UN High Level Political Forum of the implementation of the 2030 Agenda for Sustainable Development, including successes, challenges and lessons learned. The only two Member States who have not, or are not currently scheduled to submit a report, are Bulgaria and Austria. Austria has in place a regular biennial, reporting mechanisms, an indicator report on monitoring of sustainable development.

A recent study produced for the European Parliament¹⁴¹ examines the governance frameworks put in place for SDG implementation in all EU Member States, and the resulting country fiches provide a comprehensive comparative overview. The analysis shows that EU Member States are integrating SDGs into national strategies. However, while some Member States have taken steps to enhance horizontal policy coordination, there is a continuing need for better mainstreaming of sustainability. There are examples of Member States innovation through SDG budgeting, improvements to the science-policy interface, and stakeholder participation

141 Study '[Europe's approach to implementing the Sustainable Development Goals](#): good practices and the way forward' DG for External Policies' (February 2019)

mechanisms for making these strategies more operational. The study was not available at the time of drafting of the Member State governance assessments.

Overarching environmental strategies or action plans

Only one Member State has adopted an overarching environmental strategy explicitly referring to the 7th Environment Action Programme (EAP) (Hungary). Around half of the Member States have a general overarching environmental strategy in place or are currently developing one, although generally these do not seem to be linked to the 7th EAP. Around 10 Member States do not have any overarching environmental strategy, but rely instead on a number of sectoral strategies. Sweden has since 1999 had in place system of Environmental Quality Objectives¹⁴², which streamline environmental issues across the whole administration and creates common goals on these issues.

Table 17: Environmental strategies and action plans

No overarching environmental strategy	Overarching environmental strategy/action plan, not linked to 7 th EAP	Environmental strategy or action plan linked to 7 th EAP	No answer
BE, BG, CY, CZ, DE, DK, IE, IT, NL, RO, SK	AT, EE, EL, FI, FR, HR, LT, LU, LV, MT, PL, SE, SI, UK	HU	ES, PT

3.5.4. Integrated assessment and planning tools

Early consideration of a full range of environmental issues in decision-making can improve outcomes. We looked at how well Member States made use of mechanisms such as Environmental Impact Assessment and Strategic Environmental Assessment and at whether the Member State integrated environmental issues into regulatory impact assessments.

Integration of EIAs and SEAs

In most Member States EIAs and SEAs have a central role in environmental decision-making and environmental policy development. There are efforts being made to simplifying and streamline the procedures.

We have not been able to draw clear conclusions on how cooperation between authorities on the EIA and SEA processes is facilitated across Member States. In most Member States, the cooperation is defined in law and there seems to be public little information about cooperation going beyond the legal requirements.

One example is Ireland, where the Bord Pleanála is responsible for approving applications where an environmental impact assessment is required (including where the project developer is a state authority), rather than the individual local planning authority which would take the

142 Sveriges Miljömål, www.sverigesmiljomal.se

decision in other cases. Thus, the requirement for environmental impact assessments causes a change in the decision-making process, with the aim of ensuring greater rigour and consistency.

Environmental issues in Regulatory Impact Assessments (RIAs)

Nearly **all the Member States (26) have a RIA process in place, but some seem to use these sporadically or insufficiently**. Only two Member State (Cyprus and Malta) do not seem to apply any system of Regulatory Impact Assessment (RIA).

All those Member States that have RIA processes in place include environmental issues in the impact assessment for policies in other sectors. For some Member States, however, the environmental dimension is not properly addressed or not as developed as e.g. the economic impact assessment.

Half of the Member States have a central webpage where RIAs can be found¹⁴³, although some of these seem to be rather outdated. The other half has no such central webpage, but the RIAs (if prepared) can in many cases be found through the websites of the responsible administrative bodies.

Table 18: Central websites providing information on Regulatory Impact Assessments

YES	NO	To some extent
BE, BG, CZ, DK, (not very up-to-date), DE (but outdated), EE, ES, HR, LV, LT, HU, NL, AT, PL	EL, IE, FR, IT, CY, MT, RO, SI, SK, FI, UK	LU, PT, SE (through other pages)

3.5.5. Flexibility/adaptability

Our final set of questions looked at whether environmental administrations showed openness to new approaches and to external challenge. In particular, we looked at mechanisms for consultation with civil society organisations, responsiveness to external feedback and openness to the use of digital services for interaction with the public and with organisations subject to environmental legislation.

Use of electronic services

Most Member States have electronic services in place for some aspects of environmental administration, but the level of use of electronic services varies greatly between Member States. All provide information through electronic services and include channels for communication, such as email. Around two thirds of Member States provide possibilities to file complaints, take part in consultation, apply for permits or apply for funding through their electronic services.

Around half of the Member States have well advanced use of electronic services in environmental administration. One example of advanced use of electronic services in the environmental administration is Denmark, where the public can introduce environmental

¹⁴³ BE, BG, CZ, DK, DE, EE, ES, HR, LV, LT, HU, NL, AT, PL

complaints online via the Boards of Appeals' website and there are a number of environmental compliance tools available online, notably with regard to agriculture¹⁴⁴ and waste reporting¹⁴⁵.

There are some Member States currently working to improve or enhance the use of electronic services, such as Germany, France and Romania. In terms of ambition, it is worth noting that in Estonia the authorities aim to provide all their administrative services electronically.

Responsiveness of environmental administrations

Information on the responsiveness of environmental administrations could not be identified in most Member States. Member States were generally not able to provide information or evidence on this issue and much of the information we have identified in the assessments is anecdotal in nature.

Consultation mechanisms

Almost all Member States have some form or forms of consultation mechanism in place. Most make consultations available for NGOs and members of the public, but the methods, possibility to participate and influence, and time for consultation vary. One fifth of Member States do not go beyond the minimum requirements established in EU legislation.

More than half of the Member States have permanent or temporary committees or working groups on environmental issues where NGOs are represented. Some examples include:

- the Federal Council for Sustainable Development in Belgium, which has a long record of promoting stakeholder participation¹⁴⁶;
- the Environmental Consultative Council¹⁴⁷ in Latvia, consisting of 20 annually elected environmental NGO representatives, which regularly gives its opinion on legislative and policy proposals and is represented in different working groups set up by ministries;
- the Observatory for the Natural Environment in Luxembourg, which has the objective of helping to define the orientation of government policy on protection of the natural environment and which includes representatives from the main Environmental NGOs (natur&ëmwelt and Mouvement écologique)¹⁴⁸;
- the Green Growth Coalition in Portugal, including a large number of public and private stakeholders, serve as the main advisory body under environmental topics¹⁴⁹.

Some Member States also have a more informal, but nevertheless regular, dialogue with representative civil society stakeholders and NGOs; examples include Estonia, Sweden and Finland. In Finland the Ministry of the Environment has an established practice of including NGOs as experts in conference delegations to negotiations on international environmental treaties.

144 MEF, Landbrugsindberetning, <https://landbrugsindberetning.dk/>

145 EPA, Indberetning, <https://mst.dk/affald-jord/affald/indsamleruddannelsen/affaldsdatasystemet-ads/indberetning/>

146 Homepage Federal Council for Sustainable Development Belgium (FDRO), <https://www.frdo-cfdd.be/en>

147 Ministry of Environmental Protection and Regional Development, Environmental consultancy board, <http://www.varam.gov.lv/lat/lidzd/pad/vkp/>

148 Observatoire de l'environnement naturel (Portail de l'environnement)

http://environnement.public.lu/fr/natur/biodiversite/observatoire_environnement_naturel.html

149 Crescimento Verde (2017), Relatório Anual de Atividades 2016, p.4,

<http://www.crescimentoverde.gov.pt/wp-content/uploads/2017/07/Relatorio-Anual-Atividades-2016.pdf>

Although all Member States have public consultations and other forms of consultation mechanisms in place, it can be concluded that the outreach and effectiveness of these consultations could be improved in most Member States.

3.5.6. Good practice examples on effectiveness and efficiency

This overview of good practices is a non-exhaustive list based on the individual country assessments. For more details and links to more background material for all these good practices, please refer to Annex 6.

The wide-ranging nature of the Effectiveness and Efficiency dimension means that the good practices identified by the country researchers cover a range of subject matters.

A number of mechanisms have been adopted by Member States aimed at bringing together functions so that they are more accessible to users. For example, in 2007, the Lithuanian Government introduced the **one-stop-shop principle into the public administration** by adopting Resolution No. 875 “On Approval of the Examination Order of Applications of Individuals and their Servicing at Institutions, Agencies and Other Public Administration Establishments”. In accordance with this resolution, state and municipal institutions are obliged to follow this principle in serving individuals and examining their requests and complaints¹⁵⁰.

Examples of streamlining of decision-making include the approach in Ireland, where **the Bord Pleanála (national planning authority) is responsible for approving applications where an environmental impact assessment is required** (including where the project developer is a state authority). Thus, the requirement for environmental impact assessments causes a change in the decision-making process, with the aim of ensuring greater rigour and consistency. In Austria the **Environmental Impact Assessment is streamlined** with other administrative procedures through a mixture between joint and coordinated procedures. **Italy has integrated/coordinated environmental assessment procedures under the EIA Directive (SEA, Habitats, Industrial Emissions Directives)**. Especially noteworthy is the fact that, on request of the proposer, EIA authorisation is issued within the framework of a single joint procedure, including any authorisation, opinion, concert, act of assent required by current legislation for the realisation and the exercise of the project.

Examples of streamlining in permitting processes were also identified. In Portugal the Environmental Single Licensing (LUA) system has been developed to operationalise the Single Environmental Permitting Regime, **which simplifies and harmonises decisions on many environmental permits**. France has since 1 March 2017, operated **a single environmental authorisation procedure, which merges a number of different authorisations**. An **electronic one-stop shop** to further facilitate this procedure is planned, which will in particular enable speedier electronic cooperation between the bodies contributing to the decision on the environmental authorisation.

Other initiatives on **the use of electronic services in environmental administration** include Italy’s Portal for Impact Assessments of the Ministry of the Environment (and similar mechanisms in other Member States mentioned in section 3.2.5 on public participation). **Reliance on e-government and e-services is a dominant approach in the modernisation of**

150 Nakrošis, V. (2017), Support for developing better country knowledge on public administration and institutional capacity building (EUPACK), Report on Public Administration Reform Trends and Reform Dynamics in Lithuania, report prepared for DG EMPL of the European Commission, p. 10

service delivery in Croatia. The central e-Government portal¹⁵¹ has been set up as a one-stop information point presenting the structure, function and roles of all governmental authorities, enabling simple access to all public administration information and services searchable by service type, topic or sector, and by policy activities. The e-Consultations portal is a public consultation tool where public authorities are obliged to publish drafts of legislation and other policy documents and comments can be submitted by all interested stakeholders; the related public consultation reports are also available online. In Latvia **the Environment Ministry and its subsidiary institutions have all developed electronic services to interact with society.** The State Regional Development Agency (a subsidiary institution of the Ministry) has developed a One-stop-shop concept for Latvia. According to this Concept, all the ministries should include their services in the public portal www.latvija.lv.

Green public procurement approaches adopted include Finland's "Keino" project, which enables a more innovative and sustainable approach to public procurement in the sectors of social services, health care, construction, energy, transport, logistics and circular economy. The aim of "Keino" is to develop a public procurement network, which recognises that procurement is a leadership tool and that those in the network openly share their experiences and learn from each other¹⁵². Austria has also made **good efforts to encourage more sustainable public procurement.** The Federal Ministry for Sustainability and Tourism maintains a website and helpdesk on sustainable public procurement for other public authorities, and some procuring entities at local and regional level also have internal strategies/policies. The Flemish authorities in Belgium **have ambitious green public procurement action plans**, and supporting initiatives such as a dedicated funding programme. Sweden has very **progressive policies regarding green and sustainable public procurement, with a new agency for green public procurement**¹⁵³ that was established in 2015 and a continuous measurement of the percentage of public procurement where environmental requirements have been applied.

Mechanisms to improve the use of **regulatory impact assessments (RIA)** can help to ensure better decision-making, including a better understanding of environmental impacts. Bulgaria has a **framework for regulatory impact assessment in place** and efforts are being made to build capacity for its implementation. Finland benefits from the existence of a Council on **Regulatory Impact Assessment**, which has recommended the preparation of a revised and harmonised set of impact assessment guidelines that would also include guidance on assessing the impacts of EU legislation¹⁵⁴. A closer link between Commission's Impact Assessments and national RIAs is viewed as likely to improve law-making overall.

The development of over-arching environmental strategies should, in principle, enable more coordinated and predictable decision-making, aligned to environmental goals. We have not attempted to make comparisons between the over-arching environmental strategies that have been adopted. However, Sweden's **system of Environmental Quality Objectives**¹⁵⁵ can be seen as a good practice, in that it streamlines environmental issues across the whole administration, and creates common goals on these issues. The Environmental Quality Objective system is composed of one generational goal, 16 national Environmental Quality

151 Central e-Government portal, <https://gov.hr/>

152 Ministry of Economic Affairs and Employment (2018), [KEINO –Kohti kestäviä ja innovatiivisia julkisia hankintoja](#), 2/2018

153 National Agency for Public Procurement, [Upphandlingsmyndigheten, Sustainability criteria](#),

154 Prime Minister's Office of Finland (2018), Finnish council of Regulatory Impact Analysis, [Annual Review 2017](#), 4/2018

155 Sveriges Miljömål, sverigesmiljomal.se

Objectives and a number of milestone targets. This system was established in 1999 and it is constantly developed. Slovakia has a **strong approach to SDG implementation** with the Ministry of Environment currently preparing a new environmental policy strategy, which will be developed in line with the Agenda 2030 objectives¹⁵⁶.

3.5.7. Overall results on the effectiveness and efficiency questions for which we categorised performance

An overview of the categorisation of performance is shown in Figure 18. Further information on the criteria, and more detail on how they were applied, is provided in Annex 5. As mentioned earlier, these overviews allow for a quick and synthesised access to the results of the study but should be treated with caution given the methodological particularities and existing data constraints.

France, Denmark, the Netherlands and Sweden were assessed as having the highest overall performance in the areas of effectiveness and efficiency addressed by the questions categorised. These countries have generally good frameworks for the absorption of funds, and show high levels of integration and coordination in the environmental field.

Cyprus, Malta, and Romania are facing bigger challenges in this area. **Romania** scored poorly on most issues we categorised, including on green public procurement and on cross-governmental implementation of the SDGs. While **Malta's** performance on these issues was assessed more favourably, there were gaps in terms of its mechanisms for addressing environmental in RIAs, as was the case for **Cyprus**.

¹⁵⁶ Ministerstvo Životného Prostredia, <http://www.minzp.sk/sekcie/temy-oblasti/udrzatelny-rozvoj/agenda-2030/>

Figure 18: Overview of performance categorisation on Effectiveness and efficiency



4. MEMBER STATE ASSESSMENTS

The completed Member State environmental governance assessments are being made available alongside this report, together with separate summary fiches for each Member State on the comparable and aggregated elements of the assessments.

4.1. Design and presentation of Member State country fiches

The assessment of environmental governance in EU Member States generated a wealth of detailed information across a wide variety of governance topics. While the vast majority of the performance-related information gathered was of a qualitative nature, quantitative information was collected where possible.

Visualisation and aggregations (through a simple approach to categorisation of performance, as described in section 2.5.2 above) of the information gathered from the Member States were designed to increase the accessibility and usefulness of the assessment. The limitations of this approach, as described in that section, need to be borne in mind. Visualisations of these multi-criteria analysis results were developed to achieve the following several objectives:

Provide an overview – Visually show relative performance across the various dimensions.

Increase engagement – Increase the speed at which users can understand the material and allow them to quickly identify specific aspects of interest to explore.

Aid navigation – Assist users in quickly finding the written material of highest personal interest and relevance.

Identify patterns – Convey geographic patterns and patterns of consistently high, consistently low and mixed performance on various dimensions.

Facilitate knowledge transfer – Assist in the identification of good practices.

This approach has been discussed and tested at the Third Stakeholder Workshop (January 2019). The feedback from this workshop has been considered, and in particular a number of reservations on such an approach were taken note of. It was still considered useful to present the results of the work as a starting point for further reflections; but it was highlighted that the research and methodological challenges (see below and Annex 5) should be considered alongside fiches.

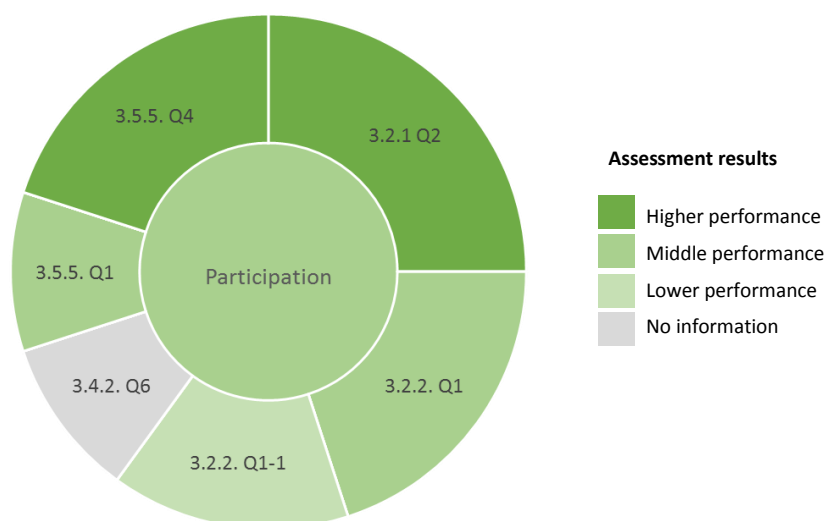
Country fiches / Badges

The categorisation of Member State results undertaken in the project enabled the creation of overview diagrams for each dimension showing Member State performance in respect of those questions where we were able to categorise performance; it should therefore be emphasised that these do not therefore cover performance in all of the themes included in the dimension. Circular charts were developed for each dimension that showed, on an outer ring, performance on the themes and questions where performance was categorised, combined with an overall dimension performance result in the centre circle. The size allocated to each theme indicates its weighting in the categorisation criteria, and its colour indicates the level of performance, with darker shades indicating better performance. Figure 19 provides an example.

The question numbers are included as labels. The complete questions, and the criteria used in the categorisation of performance, are set out in Annex 5. The question numbers can also be used to guide the reader to the relevant section of each country's environmental governance assessment, where the underlying evidence for the categorisation can be found. Through this

approach, the badges are intended to provide transparency regarding the categorisation of Member State performance in each dimension.

Figure 19: Example of a Member State categorisation badge (public participation)



Questions	Indicators	Weight %
3.2.1 Q2	Availability and level of targeted facilitation of public engagement	25
3.2.2 Q1	Extent to which participation in EIA public hearing and submission of written opinion is open to all parties	20
3.2.2. Q1 Scenario	Availability of quantitative data on the level of public participation in the EIA/SEA in chosen scenario	15
3.4.2 Q6	Availability of activities in encouraging submissions of environmental data by the public citizen science	10
3.5.5 Q1	Use of electronic services by environmental administration for interaction with the public	10
3.5.5 Q4	Availability of mechanism for consultations with civil society	20

Maps

A series of maps was developed to accompany the badges, with each map showing Member States' performance on a specific dimension. Whereas the badges show the absolute scores received, the maps are based on the relative scoring, with the Member States grouped into five different performance quintiles. The maps enable rapid discernment of geographic patterns and allow users to quickly see how specific Member States' relative performance on the categorised questions varies by dimension. The maps are included at the end of the account of results under each dimension in sections 3.1 to 3.5 above.

4.2. Research challenges

The research work in preparing the individual Member State governance assessments came up against a number of research challenges, which are summarised below. Consideration should be given to whether, and how, these challenges could be better addressed in the future development of the environmental governance assessment framework.

4.2.1. *Administrative structure and governance system*

The more unitary a system of environmental governance is, the easier it proved to identify and evaluate information relevant to this assessment. However, governance systems are not designed for the convenience of researchers. Assessing those Member States with significant levels of devolution of policymaking and implementation to regional and local level, leading to varying approaches and performance, and in some cases varying governance structures at regional level, proved challenging. Further work to address this challenge in future development of the environmental governance assessment framework would be valuable, and could benefit from early discussion with those Member States with a federal or highly regionalised structure.

We set out below a number of examples of the sorts of research challenge created by applying the assessment framework to highly regionalised structures. A common thread is that it proved impossible, with the limited research budget available, to assess performance fully in all regions. In those Member States (Germany, Italy, Spain, Austria) with a high number of regions to which environmental policy responsibilities are delegated, we looked at only a small sample of regions, leading to a risk that our sample was not representative for the relevant question, or that significant strengths or weaknesses in other regions were not identified. Even where there was a smaller number of regions to consider (for example, in Belgium or the United Kingdom), challenges in categorising performance across different administrative structures were faced. Finally, it should be noted that where local authorities are an important element in the implementation of environmental legislation, performance can vary significantly, particularly where the size of local government structures varies (for example, between larger cities and smaller rural settlements).

The introduction to Section 3 provides a general account of multi-level governance across the Member States, drawing on earlier work in the EU PACK study¹⁵⁷. Here, we identify some of the challenges these structures posed for our assessment of environmental governance.

The legislative competence is divided between the federal and the state level in **Austria**. While the implementation of policies and laws is devolved at four levels: federal government, federal states (or federal provinces), districts and municipalities. Therefore, it proved time consuming to gather information and to identify differences among the states to give the whole picture. Similar issues were faced in relation to **Italy**, **Spain**, and **Germany**. In **Germany**, the federal structure of the country poses specific challenges to the assessment. First, in many cases essential information is only available at the level of the 16 federal states, which makes research a time-consuming exercise. Second, for certain environmental governance aspects there are differences in the approach adopted from one federal state to another, which makes it difficult to provide a summary assessment for the whole country

The complex administrative structure of **Belgium** and the split of competences among the three regions required substantial investment of time the governance system. Although there is generally no lack of publicly available information and transparency, the sheer number of

¹⁵⁷ See footnote 9

institutions, policy instruments and governance levels involved can easily be overwhelming even from a research perspective.

In the **UK**, particular challenges arise from the devolved nature of policy responsibility in respect of Scotland, Wales and Northern Ireland. While the UK Department for Environment, Food and Rural Affairs is responsible for international environmental issues, and is the contact point for the EU institutions, its approach to implementation is for most issues relevant only to England. Thus, a full answer to most questions involved consideration of the issue in each of four different systems, which would be an extremely time-consuming process. We have tried to strike a balance between providing full information across the UK, without providing information at such a low level of detail that it is unhelpful. In those cases where we have addressed only practice in England, we have aimed to make that clear.

Much of the practical implementation of environmental policy in **Denmark** takes place at the municipal level. This means that certain information about implementation is only available very diffusely, and it can be hard to make categorical assessments. Information about internal government processes and data was often difficult to obtain, and required further follow up directly with the administration. Similar challenges were faced in relation to **Poland**.

Some challenges arise from the decentralised nature of policy responsibility across the levels of governance in **Sweden**. Thus, a full answer to some questions involved consideration of the issue on a number of different levels.

4.2.2. Public availability of information and data

The assessment of environmental governance overall relied on publicly available information; as noted in section 2.3 above, this reflected a decision to avoid burdening Member State officials with an information-gathering exercise at an early stage of the development of the assessment framework. Accordingly, for some questions of this assessment it was not possible to find adequate information to provide complete responses. In a number, but by no means all, cases, Member States were subsequently able to provide information to address any gaps. While the absence of publicly available information should not necessarily be taken as an indication of poor environmental governance overall, it can, however, be an interesting sign in relation to transparency and easy accessibility of information.

4.2.3. Obstacles to easy access to databases

There were a number of areas where it proved difficult to extract comparable statistical information, even though databases were maintained and were available for consultation. This was because of a range of reasons, including:

Environmental databases:

- Many of the environmental databases required users to register, which makes access more difficult.
- In some cases information was in principle available but the databases did not allow technical solutions for extraction of the information needed.
- Some of the databases were not designed as a user-friendly tool, and had cumbersome search functions.

Court databases:

- Often it proved difficult to search through the databases of the courts. If a researcher does not know, for instance, the specific reference to a court case, it is often difficult to locate it based on a word search or a subject matter search.
- Court databases generally do not differentiate environmental cases from other administrative cases, which further limits the analysis.
- Judicial information on court cases is generally not stored in ways which allow for statistical treatment related to the effective outcomes of cases.

EIA databases:

- In some EIA databases it proved difficult to access documents, since specific, not widely used software, needs to be downloaded for the readability of the attached files.
- In some Member States, access to EIA and SEA information is available only for ongoing procedures. It is therefore not possible to review completed EIAs.

4.2.4. Conflicting sources of information

During our research, a clear differentiation could be made between official national reports prepared by national authorities, which are as a rule positive in their description of the situation, and identify progress which has been made, but at the same time provide little practical evidence and rely mostly to citing regulations and laws and on the other hand, reports from NGOs as well as research works, which tend to focus on negative issues in terms of environmental governance quality, while they do provide specific examples to corroborate their opinions.

Therefore, faced with often opposing statements in providing input for this report and estimating relevance of the information, the authors had to rely on a professional judgment, and on local knowledge of the situation. It should also be noted that the level of engagement from Member State authorities in commenting on drafts of the Environmental Governance Assessments varied and that we had the benefit of comments from national level NGO stakeholders in only a very limited number of cases. The comparability of the treatment of Member States may therefore be to some extent skewed, in that critical commentary on Member State performance from NGOs was available in only a limited number of cases.

4.3. Areas for further improvement of the assessment framework

Methodological issues

In the event of future iterations of the Environmental Governance Assessment, early communication with Member States, and sharing of information could usefully generate better and/or more standardised information and enable the early identification of relevant information sources. Many of the answers provided, in particular for data-scarce situations based on publicly available information, would benefit from thorough validation through interviews.

A few of the questions in the assessment templates included subsidiary questions. These made the answers to the questions more difficult to identify, and especially cumbersome to assess and, ultimately, ascribe scores. Some of the sub-questions were not properly addressed by researchers in the initial draft of the assessment. For a future iteration it will be important to keep the questions simple to obtain more targeted and comparable answers. However, this is likely to be at the expense of contextual information.

Some of the questions in the template required qualitative and descriptive answers. Such questions leave more room for interpretation and a degree of subjectivity in assessment. It could be useful to explore further, including in discussion with Member States, what balance should be aimed for in the combination of qualitative and quantitative answers. The latter will tend to provide more easily comparable information for the Member States.

In some cases, while questions can focus on quantitative information, interpretation and comparison of that information requires a much richer contextual understanding. For instance, while questions on costs of bringing legal cases can be further fragmented and sub-divided into other relevant questions referring to costs, a full understanding of the range of potential costs associated with the administrative legal procedure is needed. Further work should be done to develop a more elaborate framework for assessment taking into account more variables and increasing the comparability across the Member States, if there is a consensus that this is an area where comparison would be valuable, and which can provide general lessons capable of improving access to justice and environmental implementation.

When planning any further review of environmental governance, it should be considered, in the light of the challenges of research in regional and federal systems described above, that in Member States with substantially devolved administrative competences proportionately more research resources need to be allocated to allow a similar level of robustness of conclusions as in the more centralised Member States. For federal or regionally organised Member States with a greater number of regions (for example, Germany, Spain, Italy), our research could not realistically address all regions in the necessary depth, and only a limited sample of regions was studied. Mechanisms for ensuring the representativeness of such sampling could be further considered.

Areas for possible further research relevant to environmental governance stemming from the assessments

In most of the Member States there are progressive public participation procedures stipulated in the legislation to allow for public engagement. In spite of the substantial public interest in some major infrastructure projects demonstrated by active participation in EIA procedures, the research confirmed that often the level of participation is low. Commonly there are no statistics available on the level of public participation, and often the way public input is taken into account is not transparent. Thus, we see the need for targeted research to identify and assess the dissuasive factors and the successful drivers to foster effective consultation mechanisms.

An area of possible further analysis also related to public participation, is the actual levels of engagement by citizens in the use of various information sources, web-based platforms, and other opportunities provided. The relatively low participation level in many of the Member States seems to be representative of broader and multiple challenges. Interesting approaches to encouraging participation were identified in a number of Member States, suggesting that active exchange of good practices among authorities of the Member States should be further facilitated.

The rationale behind the Aarhus Convention requirements on access to justice, access to information, and public participation, is partly based on the need for social equity (in that populations have an interest in environmental issues that affect them directly or indirectly); but also in part based on the need to give a voice to the interests of the natural environment itself (and thereby protect its intrinsic value and the general interest in the ecosystem services it provides). In principle, greater public involvement in environmental policymaking and decision-making should lead to better quality decisions, which more effectively protect society's long-term interests. In practice, however, our research suggests that implementation of the Aarhus requirements by public authorities can (notwithstanding some of the positive examples we identify) be grudging, reluctant, and focused on procedural compliance. This may be because public authorities find it counter-intuitive to accept that encouraging challenge to their policies and decisions can help to improve them. Just as a better understanding of the reasons behind public reluctance to engage in environmental decisions-making would be valuable, so could a better understanding of attitudes among public officials towards access to justice, transparency, and public participation, throw valuable light on how to generate greater enthusiasm within administrations for what can feel like uncomfortable and unwelcome processes.

5. OUTLOOK AND CURRENT ENVIRONMENTAL GOVERNANCE INITIATIVES

This section provides information on current developments¹⁵⁸ identified in the Member State assessments, either on the basis of the research carried out on publicly available information, or on the basis of information provided by Member State authorities. Relevant initiatives or developments were not identified in all Member States, and therefore only some are mentioned here. This is not intended to be a comprehensive overview of relevant governance initiatives and developments. However, it is important to reflect the fact that governance continues to change and adapt in Member States, both in terms of improvements to transparency, public participation, and broader implementation. In some cases, developments risk weakening of certain aspects of environmental governance. In general, we reproduce below the relevant references in the individual Member State Environmental Governance Assessments.

5.1. Initiatives aimed at improving environmental governance

Public authorities have launched a variety of initiatives and reforms aimed at ensuring better transparency in decision-making, open governance, e-services delivery, e-participation and dialogue with stakeholders in the environment sector. Special focus is placed on improving e-governance and wider digitisation of services for the general population, and on introducing one-stop-shop access to the government and its services. **Table 19** below outlines broad categories of initiative, and indicates which Member States have initiatives under each category; the remainder of this section provides information on the initiatives, by category and in order of Member States.

Table 19: Member State distribution of types of initiative identified

	Member States governance initiatives	BE	BG	CZ	DK	DE	EE	IE	EL	ES	FR	HR	IT	CY	LV	LT	LU	HU	MT	NL	AT	PL	PT	RO	SI	SK	FI	SE	UK
1	Administrative and institutional reforms				1.1				1.3	1.8	1.2		1.5					1.4	1.6			1.7							1.9
2	Environment mainstreaming and policy	2.1			2.2														2.4	2.5		2.6						2.3	2.7/
3	Envtl law development, EIA and permitting				3.1												3.2			3.4					3.5			3.3	3.6
4	Access to justice, legal standing and																	4.1			4.2								
5	Transparency, information delivery		5.1										5.2				5.3												
6	Stakeholder engagement, e-participation		6.1			6.4		6.5				6.3									6.1								
7	INSPIRE and geospatial data		7.1						7.3			7.2			7.4														7.5
8	One-stop-shop services and portals										8.2												8.3					8.1	
9	E-governance, digitisation of services					9.2	9.3	9.5				9.1	9.6			9.7	9.8					9.9						9.4	9.10
10	Capacity building		10.1								10.2											10.3							

1. Administrative and institutional reforms

1.1 Denmark: The field of environmental governance has seen a number of structural changes in terms of administrative organisation over the last couple of years, not least the merger of agriculture and food into the ministry of environment. This has been followed by the restructuring of the Appeals Boards on similar lines. These re-organisations will continue to have an impact in the coming years.

¹⁵⁸ In the period April- November 2018

1.2 France: The French State is investing resources to modernise public action. The ‘Public Action 2022’ programme was launched in November 2017 and some EUR 700 million will be invested over five years through it to modernise public action¹⁵⁹. The priorities of the programme include simplification, transparency and publication of results and a pilot project (‘Carte Blanche’) testing solutions to achieve a more decentralised governance of public action by giving more freedom to local civil servants to innovate.

1.3 Greece: A new governance structure for the planning and implementation of the National Spatial Data Infrastructure and of the INSPIRE Directive was created¹⁶⁰, namely the Directorate for Geospatial Information, belonging to the General Directorate for E-Government and Geospatial Information. The above Directorate has assumed responsibilities for the legal, organisational and technical aspects of the above tasks, which were previously shared between the Ministry of Environment and Energy and National Cadastre and Mapping Agency S.A (now called Hellenic Cadastre).

1.4 Hungary: The recently established administrative high court and independent administrative courts will deal with all legal challenges of decisions taken by public authorities, including on environmental matters.

1.5 Italy: There has been a significant reform of the public administration, mainly aiming at simplifying existing regulation and re-organising public employment in order to make the relationship with citizens and business more efficient and transparent, and to make Italy more competitive¹⁶¹. This involves issues relevant to environmental governance. Italy now has a new river basin district governance framework which is fully operational for all the District Basin Authorities of the five river basins into which the national territory is subdivided (River Po, Eastern Alps, northern Apennines, Central Apennines, Southern Apennines) as well as for the Regions of Sardinia and Sicily¹⁶². The Reform has also provided for subsequent regulatory steps which have allowed the Ministry of the Environment to exercise a leading role by providing guidance to the Basin Authorities, while ensuring coordination among them.

1.6 Malta: There have been several changes in recent years in the structure and organisation of bodies responsible for environmental governance in Malta (the Environmental and Planning Authority being split into two entities, the Environment and Resources Authority and the Planning Authority, in 2016). This may have led to some issues of clarity of roles between responsible entities.

1.7 Portugal: The government announced in April 2018 their intentions concerning decentralisation to local authorities¹⁶³. A 2-step plan sets out first, the immediate transfer of competences to municipalities that were previously under the jurisdiction of central government, and secondly, the commissioning of studies for potential administrative reforms, to be presented in 2019. It is therefore reasonable to expect substantial changes in the power dynamics between different administrative tiers. As the research for reforms is still at an early stage, the possible outcomes in terms of new responsibilities, and financial capacity, being allocated to local administrative bodies are unclear. Still, an overall decrease of procedural times and bureaucracy is likely based on the Simplex+ program (see 8.3 below).

¹⁵⁹ [L'action publique se transforme](#)

¹⁶⁰ Presidential Decree 132/2017 (OGG 160/A/30.10.2017)¹⁶⁰, ‘Organisational Structure of the Ministry of Environment and Energy’

¹⁶¹ Ministero dell’Economia e delle Finanze (2017), [Documento di Economia e Finanza \(DEF\)](#), p. 54-55..

¹⁶² Sicily Region has only recently established the Basin Authority.

¹⁶³ Governo Português & PSD (2018), [Anúncio de posição conjunta para a descentralização](#)

1.8 Spain: Whereas in 2011 the government of the Partido Popular merged the environment ministry with the ministry for agriculture and fishery, the new government appointed in 2018 has re-established an independent ministry for the environment, called “Ministry for the ecological transition”, which implies greater mainstreaming of environmental issues into public sector activities.

1.9 United Kingdom: The UK Government published a consultation paper on “Environmental Principles and Governance after the United Kingdom leaves the European Union” in May 2018¹⁶⁴, recognising the possibility of a governance gap in this area upon leaving the EU. It proposed the establishment of a new body responsible for overseeing Government implementation of environmental policy, the new body would be responsible for scrutinising and advising on the Government implementation of policy and for the investigation of complaints presented to it by citizens, and enforcement. The body’s remit could potentially cover environmental responsibilities of the devolved administrations, subject to further consultation with the devolved administrations.

2. Environment streamlining and environmental policy development

2.1 Belgium: In the Brussels-Capital Region a draft ordinance was under way when this report was finalised¹⁶⁵, with the objective of merging into a single text access to information dispositions (for environmental and other matters).

The Flemish merger of the policy domains of environment and spatial planning is still ongoing, and offers opportunities for a simplification and clarification of policy competences in the rather dispersed policy domain of environment and thus the potential for increased effectiveness, efficiency and coherence. However, practical implementation also poses a number of challenges and certain risks, for example a reduction in capacity for monitoring, assessment and inspections.

2.2 Denmark: One important issue will be the sourcing of scientific advice for the government, moving away from the framework contracts which have been used since the 2007 reform of the structure of government in Denmark. The political sensitivity of this issue will keep it salient in coming years. Consensus does not exist on the best way to source information, and efforts could be made to improve confidence and buy-in from all stakeholders in this area.

2.3 Finland: The Ministry of the Environment published in 2018 its revised environmental strategy ‘Strategy 2030 - A better environment for future generations’¹⁶⁶. The strategy was developed by the Government and the ministries and outlines three objectives:

- good environment and diverse nature;
- carbon-neutral circular economy society; and
- sustainable urban development.

2.4 Malta: In an effort to enshrine environmental protection in the constitution, in March 2018 Environment Minister Jose Herrera proposed a constitutional amendment to introduce a ‘strong moral and political obligation’ for the government to favour policy to preserve the environment

164 Department for Environment, Food & Rural Development (2018), [Environmental Principles and Governance after the United Kingdom leaves the European Union](#)

165 February 2019

166 Ministry of the Environment (2018). [Strategy 2030 - A better environment for future generations](#), May 2018

for future generations. An act to amend the Constitution of Malta, to ensure that the environment is given recognition was adopted on 21 June, 2018¹⁶⁷. The act adds a new Article of the constitution to read: “The State shall protect and conserve the environment and its resources for the benefit of the present and future generations and shall take measures to address any form of environmental degradation in Malta, including that of air, water and land, and any sort of pollution problem and to promote, nurture and support the right of action in favour of the environment”.

2.5 The Netherlands: Members of the Parliament have taken the initiative for an Open Government Act (*Wet open overheid*)¹⁶⁸ and by the time of the finalisation of this report¹⁶⁹, there was a draft law submitted to the parliament. This draft law aims to make government administrations and associated bodies more transparent in order to better serve the interest of access to public information for the democratic rule of law, citizens, government and economic development¹⁷⁰. To achieve these goals, the proposal embeds access to public information as a citizen’s right and promotes the active disclosure of certain categories of information. In addition, government bodies will be obliged to keep an online available register of the documents and databases in their possession. The parliamentary debate about the proposal had not been completed when this report was published.

In the coming years, the Netherlands aims to further integrate all policies related to the living environment and activate societal actors to translate their own environmental responsibilities into action. As a result, the administrative culture will increasingly change from a directive into a more facilitating style of working.

2.6 Poland: In early September 2018, a draft of the National Environmental Policy 2030 was published and made available for public consultation. The document encompasses topics such as the government’s environmental targets and priorities or environmental issues related to the responsible development strategy¹⁷¹.

2.7 United Kingdom Consideration of the outlook for environmental governance in the UK is dominated by reflection on the implications of the UK’s departure from the EU. The UK’s decision to initiate the Article 50 process has prompted reflection among Government, Parliament and stakeholders on the role of EU institutions in environmental governance in the UK, with potential lessons for the broader understanding of the EU institutions in relation to national governance among the remaining Member States. It has, in particular, been pointed out¹⁷² that a number of European Union Treaty principles in relation to the environmental (for example, the polluter pays principle, the precautionary principle, the principle of addressing environmental impacts at their source) would as things stand not be present in the UK’s legal framework after departure. The new proposals on environmental governance outlined in 1.9 above are a response to this situation.

2.8 United Kingdom: Under the “Well-being of future generations Act (Wales) 2015”¹⁷³, the Welsh Government established a new requirement on public bodies to consider the long-term sustainability impacts of their policies and actions, and established a new office, the Future

167 <https://parlament.mt/media/94770/act-xxii-constitution-of-malta-amendment-act.pdf>

168 [Proposal for an Open Government Act](#)

169 February 2019

170 Implementation Report to the Aarhus Convention, available on the [Aarhus Convention website](#)

171 Ministerstwo Środowiska (2018), [Projekt Polityki ekologicznej państwa 2030](#), p. 7

172 See, for example, Burns, C. et al. (2018) [UK Environmental Policy post-Brexit: a risk analysis](#), and Nesbit, M. et al. (2017), [Ensuring compliance with environmental obligations through a future UK-EU Relationship](#), IEEP

173 [Well-being of Future Generations \(Wales\) Act 2015](#)

Generations Commissioner for Wales, with a remit to challenge and advise the Welsh government and its agencies on how to integrate the principles of long-term wellbeing into their policy and action.

3. *Environmental law development, EIA and permitting*

3.1 Denmark: The impact of changes in the EIA law will become clearer over the next couple of years, and follow up may be required to ensure that Denmark improves or maintains its traditional good level of public engagement. Similarly, although public and stakeholder consultations are always carried out in the case of new legislation or major changes to plans or programmes, consideration could be given to the inclusion of stakeholders in the earliest phases of decision making, bringing the process more in line with the spirit of the Aarhus Convention.

3.2 Finland: A Government statement in February 2018 recommended a new law to integrate the environmental permit procedure. The integration of environmental permits would be enabled through bringing the time periods of the different permits together. The one-stop shop approach would apply to applications for permits under the Environmental Protection Act, the Water Act and the Land Extraction Act and could also be applied to other permits, such as those for the Land Use and Building Act and the Mining Act¹⁷⁴.

3.3 Luxembourg: A new EIA law in 2018 introduces changes designed to make public participation a greater component in the process and to make more information publicly available. This could represent a significant improvement in environmental governance in Luxembourg. There is an anticipated Regulatory Impact Assessment law for 2019.

3.4 The Netherlands: A major overhaul of environmental legislation is currently being prepared. The revision of the Environment and Planning Act (*Omgevingswet*)^{175, 176} is intended to modernise, harmonise and simplify current rules in areas such as land use planning, environmental protection, nature conservation, construction of buildings, protection of cultural heritage, water management, urban and rural redevelopment, development of major public and private works, and mining and earth removal. It integrates these rules into one legal framework. The Ministry is currently elaborating associated implementation regulations. The new act and associated regulations are expected to enter into force in 2021.

With the new Environment and Planning Act and its associated regulations, the government aims to:

- improve the transparency, predictability, and ease of use of environmental law;
- achieve a coherent approach towards the physical environment in policy, decision-making and regulations;
- achieve more administrative discretion by means of an active and flexible approach; and
- improve and speed up the decision-making with regard to projects in the physical environment.

174 Ministry of the Environment (2018), Lausunto Luonnoksesta Hallituksen Esitykseksi Laiksi Eräiden Ympäristöllisten Lupamenettelyjen Yhteensovittamiseksi, Laiksi Ympäristövaikutusten Arviointimenettelystä Annetun Lain Muuttamisesta sekä Eräiksi Niihin Liittyviksi Laeiksi, 5.2.2018.

175 Environment and Planning Act: <https://www.omgevingswetportaal.nl/wet-en-regelgeving>

176 Official publication of Environment and Planning Act in Staatsblad 2016, 26 April 2016.

3.5 Romania: The draft legislation transposing the EIA Directive 2014/52/EU is currently published for public comment¹⁷⁷.

3.6 Sweden: A number of national authorities are working on updating their more specific guidance on EIAs and SEAs.

4. Access to justice, standing and remedies

4.1 Austria: A new Aarhus Participation Law that was approved by the Federal Council in November 2018¹⁷⁸. It improves access to justice in environmental matters for environmental organisations and individuals in the areas of waste management, water and air quality. To this end, it amends the Waste Management Law, the Emission Control Act Air and the Water Act. So, while the number of environmental organisations that have access to justice will decrease due to the recognition requirements, the number of areas in which environmental organisations have access to justice will increase.

According to information supplied by Austria, several state level administrations have already started the preparations of draft laws amending their corresponding legislation concerning nature protection, and laws on hunting and fishing.

4.2 Hungary: With the entry into force of three new procedural codes (Administrative Procedure, Administrative Judicial Procedure and Civil Procedure) the judicial review of administrative decisions has, in many instances, become the main form of remedy since 1 January 2018, while at the same time the role of administrative appeal has been diminished.

5. Transparency and information delivery

5.1 Bulgaria: An ongoing project “Improving the Processes related to the Provision, Access and Reuse of Public Sector Information” includes the development of new enhanced Open Data Portal, the Platform for Access to Public Information (it will be a shared resource for the whole public administration, and operate as a central, public web-based information system); which will build on an assessment of the needs of citizens and businesses for publishing public information in open format.

5.2 Italy: The Minister of the Environment has adopted transparency measures in order to allow citizens to understand how policy choices are made. The so-called ‘transparency decree’ of 1 August 2018 means that, from 1 September 2018, every meeting held by the Minister (and his collaborators) or high level officers of the Ministry of the Environment with stakeholders (including public and private juridical subjects, consortia, environmental associations and their representatives) will be recorded and made available to the public on the website of the Ministry of the Environment¹⁷⁹; this measure is particularly significant in terms of enhanced transparency, representing a step forward as compared to the mere creation of registers where lobbying activities are annotated¹⁸⁰.

¹⁷⁷ [Legea privind evaluarea impactului anumitor proiecte publice și private asupra mediului](#)

¹⁷⁸ Aarhus-Beteiligungsgesetz, https://www.parlament.gv.at/PAKT/VHG/XXVI/I/I_00270/index.shtml.

¹⁷⁹ Ministry of the Environment (2018), [Ambiente, il Ministero diventa una casa di vetro. Il Ministro Costa, che ha firmato il “decreto trasparenza”: il mio dicastero aperto a tutti](#); press release,.

¹⁸⁰ Such registers have been adopted by MIPAAFT in 2011, the Ministry of Economic Development in 2016 and the Ministry of Simplification and Public Administration in 2017, as well as by the Chamber of the Deputies in 2016, according to the press release referred to in footnote 193.

5.3 Luxembourg: The Environment Department has undertaken a number of recent initiatives to support improved environmental governance in Luxembourg, including the provision of environmental information via public broadcasting – i.e. documentaries to promote diverse issues such as biodiversity protection and waste management¹⁸¹.

6. Stakeholder engagement and e-participation

6.1 Austria: There are plans to develop and expand e-participation and e-democracy, in order to allow citizens and companies to deal with administrative obligations in a swift manner and without needing to know the distribution of responsibilities and competencies between state agencies. Furthermore, there are plans to involve the broader public through internet chats with decision-makers, e-participation in consultations on new laws, and electronic voting.

6.2 Bulgaria: An ongoing project “Administration and Civil Society – Partnership in Governance”: includes a number of measures, including updating the voluntary Standards for Public Consultations; elaboration of guidelines to attract ‘crowdsourcing’ and ‘civic hacking’; updating the Public Consultations Portal and integrating it with other public information tools; and analysis of opportunities for outsourcing of state regulatory functions (self-regulation of economic sectors).

6.3 Croatia: In line with the draft National Strategy for creating an enabling environment for civil society development 2017-2021¹⁸², in 2018 improvements of the ‘Code of consultation with concerned public in law making and regulatory procedures’ were planned, as well as production of new Guidelines for implementation of the Code, and improvements in the e-Consultations portal to incorporate the requirements of the new Regulatory Impact Assessment regulations. Also, the Governmental Office for NGOs plans to set up online e-consultation systems for decision making on the local and regional level in cooperation with national associations of towns/municipalities/counties.

6.4 Germany: The coalition agreement between Christian Democratic Union (CDU), Christian Social Union (CSU) and Social Democratic Party (SPD) from 2018 stipulates the creation of a participation platform for all published draft legislation. This shall allow for a transparent participation of citizens and associations, with the federal government then commenting on the input. The coalition agreement also states that an expert commission shall be established with the objective of drawing up proposals on how to complement parliamentary representative democracy with further elements of public participation and direct democracy.

6.5 Ireland: The current administration has committed to a National Dialogue on Climate Action, in order to create awareness of climate issues and to facilitate public discussion on them. The Citizen’s Assembly mechanism, which was used in 2018 to address climate change, could potentially be used again; in which case environmental issues appear to fit well with the chair’s recommendations (from the Citizen’s Assembly report of 2018) that topics could be suitable if they “seek to establish the national mood on an issue”, or “seek to begin a conversation about a topic of national importance”.

181 Ministère du Développement durable et des Infrastructures, Département de l’environnement, (2018), [Rapport d’activité 2017](#), p7

182 Governmental Office for NGOs (2018), [Izvešće o provedbi savjetovanja sa zainteresiranom javnošću u postupcima donošenja zakona, drugih propisa i akata u 2017 ; godini](#), pp. 17-18,

7. *INSPIRE and geospatial data*

7.1 Bulgaria: Improvement of the infrastructure for spatial information infrastructure and processes will include construction and implementation of a National Spatial Data Portal (NSDP), on the basis of good practice from the INSPIRE Portals of other EU Member States. The portal is intended to be stable and easy to use, and to provide fast access in machine readable, open format to all available content of the spatial data sets. An action plan for harmonisation of the arrangements in accordance with the requirements of INSPIRE for 26 administrations will also be elaborated.

7.2 Croatia: The Open Data Portal¹⁸³ was launched in March 2015 with minor updates in 2016. So far the Portal contains 510 datasets, and it is expected that the open data policy will be adopted as a specific measure envisaged in the new Open Government Partnership Action Plan. The work on the Open Data Platform is ongoing at national and local level, and the number of datasets available to citizens online is increasing.

7.3 Greece: The Directory for Geospatial Information initiated the recompilation and updating of the extensive catalogue of spatial data sets of 2011, throughout the public administration, by ‘mapping’ INSPIRE Data Models to existing spatial data sets and collecting the respective metadata information. This ongoing work aims not only at creating a reliable inventory of existing data sets falling within the scope of the INSPIRE Directive but also at formulating a proposal for a coordination structure to replace the organisational scheme currently foreseen in the legislation¹⁸⁴, which has proven not to be operational.

7.4 Latvia: Plans are in hand to improve access to spatial data and services, identify and document all spatial datasets required for the implementation of environmental law, and make the data and documentation accessible to other public authorities and the public through the digital services foreseen in the INSPIRE Directive.

7.5 Sweden: SEPA and Sweden's geological survey agreed during 2018 on a new consolidated data protection standard for environmental hazards.

8. *One-stop-shop services and portals*

8.1 Finland: As noted in 3.2 above, the one-stop shop approach would apply to applications for a permit according to the Environmental Protection Act, the Water Act and the Land Extraction Act. In addition, the one stop shop approach could also be applied to other permits, such as those for Land Use and Building Act and the Mining Act¹⁸⁵.

8.2 France: A project of a “single stop digital shop” for environmental authorisation was launched at the end of September 2018 and will enable an online form to be put in place for environmental authorisation procedures. It will include a module for common instructions and be linked with the internet sites of prefectures to conduct public participation.

8.3 Portugal: The Simplex+ program aims at simplifying administrative procedures and facilitating civil society engagement. Among the announced initiatives, the most important for environmental governance is the iFAMA (the shared inspection platform for agriculture, marine

¹⁸³ <https://data.gov.hr>

¹⁸⁴ [Law 3882/2010](#) (OGG 166/A/22.09.2010)

¹⁸⁵ See footnote 174

and environment) online one-stop-shop. Also, the Ambiente.doc initiative on standardisation of communication channels, is a step towards reducing waiting time when dealing with information requests and improving communication between institutions.

9. *E-governance and digitisation of services*

9.1 Croatia: there are many initiatives aimed at curbing corruption, from measures for promoting openness and transparency to electronic service delivery¹⁸⁶.

9.2 Estonia is making continuous efforts to improve in e-governance. There are at least four ongoing projects which would significantly improve the quality of environmental information and its accessibility.

- An environmental monitoring database would improve access to monitoring data¹⁸⁷.
- A comprehensive modelling system with integration of relevant data is being developed for water quality data¹⁸⁸. Water quality data is currently rather difficult to find and/or to understand without expert knowledge.
- A comprehensive database for environmental permits (KOTKAS) is already partly functional but still under development. This database will enable all permit applications to be issued electronically, and all documentation, including correspondence, will be included and publicly available. The aim of this new database is to use the data that is already available in public registries. This would greatly reduce discrepancies between datasets.
- A project on “Establishment of tools for integrating socioeconomic and climate change data into assessing and forecasting biodiversity status, and ensuring data availability” (ELME) is running from 2015 to 2023.

9.3 Finland: From September 2017 municipalities are required to input data into joint environmental databases from their own servers or to input the environmental data directly into the new central database¹⁸⁹. This project is part of the 2017 Government programme ‘Public services will be digitalised’. ‘Permits and supervision’ is another project under the programme aiming to reform practices in licensing and supervision. The objective is to integrate the service and handling processes in a client-oriented way across organisational and administrative boundaries¹⁹⁰.

9.4 Germany: The Federal Government is currently carrying out a project eLegislation (Elektronische Gesetzgebung). The project eLegislation aims to further digitise the German federal legislative process. Part of this project is to make all existing regulatory Working Guides (around 50) easily accessible to the legislator.

By 2022, the federal government, the *Länder* and the municipalities are obliged to provide all administrative services digitally in Germany. The implementation is taking place step by step.

186 Koprić, I. (2017), Public administration characteristics in Croatia, report in the frame of EUPACK project, European Institute of Public Administration (Netherlands), Hertie School of Governance (Germany), Ramboll Management Consulting (Denmark)

187 Ministry of Environment website, <https://www.envir.ee/et/keskkonnaseire>

188 Environmental Board website, <https://www.keskkonnaamet.ee/et/eesmargid-tegevused/vesi/veeinfosustee-veeveeb>

189 Association of Finnish Local and Regional Authorities (2017), [Ympäristönsuojelun valvonnan sähköinen asiointi uudistuu](#), June 2017, (accessed 23.8.2018)

190 Ministry of Economic Affairs and Employment (2017), [Key project: Licensing and Supervision](#)

The legal basis for this is the Online Access Act (*Onlinezugangsgesetz*), which came into force in August 2017. The implementation of the Online Access Act is part of the coalition agreement.

9.5 Ireland: Further digitisation of services might be expected, in response both to the rapid increase in e-Government use in the population, the apparently successful introduction of a unified permitting and inspections database in the Environmental Protection Agency, and continuing constraints on Government expenditure. However the issue of Broadband access remains an infrastructural constraint, particularly in rural Ireland.

9.6 Italy: The Public System for Digital Identity (SPID) has been further enhanced, with 3,720 public administrations participating. Important innovations are planned with regard to digital administration¹⁹¹.

9.7 Latvia is planning further digitisation of services, in response both to the rapid increase in e-Government use in the population and the development of a national e-governance strategy.

9.8 Luxembourg: The development of a new mobile application to support the submission of legal complaints to the environment agency.

9.9 Poland: In spring 2018, a new GovTech Polska team was appointed, which is responsible for the implementation of the programme GovTech Polska¹⁹². The Programme fosters cooperation between the public administration and innovators, such as start-ups, entrepreneurs and the science community. It aims at enabling the public administration to develop further on the basis of modern technologies and innovation, and to create optimal conditions for fostering digitisation¹⁹³. The Programme is in a pilot phase, in which four Ministries (of Finance, Health, Digital Affairs and Entrepreneurship and Technology) are taking part, as well as the city of Świdnik¹⁹⁴.

Currently, efforts are underway to improve e-governance. A programme promoting no-cash payments in public administration units facilitates paying with a card or phone in a number of offices¹⁹⁵. Moreover, the public procurement system is being digitised, and work on legislation on electronic invoicing in public procurement is under way.

9.10 Sweden: The Environmental Protection Agency (SEPA) has a mission to develop, monitor and coordinate the provision of environmental information as well as to make environmental information accessible to the authorities, the public and others. A strategic forum has been formed, the Environmental Information Council, which consists of organisations in the public sector. Three cooperation programmes, the Environmental Protection Programme, the Nature Programme and the Water and Sea Programme, have begun to disseminate environmental information, to digitise and coordinate processes and information, and to encourage participation, innovation and accountability.

10. Capacity building efforts

191 Ministero dell'Economia e delle Finanze (2017), Documento di Economia e Finanza (DEF), p. 62.

192 Zarządzenie nr 71 [Prezesa Rady Ministrów z dnia 19 maja 2018 r. zmieniające zarządzenie w sprawie Zespołu do spraw Programu GovTech Polska](#)

193 GovTech Polska. [Łączymy administrację publiczną z najlepszymi pomysłami przedsiębiorców](#)

194 [Nowy państwowy program ma unowocześnić administrację publiczną. Do przetargów na wdrażanie innowacji mogą stać także małe firmy i startupy](#); report on Newseria, press website

195 [Urzędy otwarte na płatności bezgotówkowe](#), Ministerstwo Przedsiębiorczości i Technologii,

10.1 Bulgaria: Ongoing projects on justice reform and optimisation of services, funded by Operational Programme “Good Governance 2014-2020”, and their expected deliverables, include:

- “Development of a Model for Optimisation of the Judicial Map of Bulgarian Courts and Prosecutor’s Offices and of a Unified Information System for Courts”
- “Further Development and Centralisation of Portals of Executive Authorities in the Justice Sector aiming at Improved Access to Information, E-services and E-justice for the Citizens and Businesses”:
“Elaboration of a Standard for Publicity and Transparency in the Activities of the Courts and Advocacy for its Introduction – a Guarantee for Public Trust and Civic Oversight over the System of Justice”

10.2 France: The Biodiversity plan¹⁹⁶ adopted in July 2018 includes in its programme a measure which provides for a joint mission between the Ministry of Justice and the Ministry of Ecological and Solidarity Transition to strengthen the application of environmental rights. In particular, the measure foresees a strengthening of the training of judges and greater specialisation of courts in the field of environmental and biodiversity protection. It will also investigate the possibility of setting up specialised courts in the field of the environment.

10.3 Poland: The National School for Judiciary and Public Prosecution (Krajowa Szkoła Sądownictwa i Prokuratury, KSSiP) has planned training on environmental matters for 2019¹⁹⁷.

5.2. Current pressures potentially weakening environmental governance

In addition, our research identified some changes in progress which appear to create some risks of weakening environmental governance, as assessed under our framework. We cannot draw definitive conclusions, given that the initiatives were (at the time of our research) still in progress, and we have not been able to assess their impacts. However, it is important to note that changes in environmental governance can involve a deterioration in some aspects, as well as efforts to improve.

Austria: In October 2018, the Austrian National Council (*Nationalrat*) passed an amendment of the Environmental Impact Assessment Act (*Umweltverträglichkeitsprüfungsgesetz*) that was approved by the Federal Council (*Bundesrat*) in November 2018¹⁹⁸. Accordingly, only environmental organisations with more than 100 members can be recognised, and the recognition will be reviewed every 3 years. This amendment also affects access to justice, as only recognised environmental organisations have legal standing. The number of environmental organisations that have access to justice is therefore likely to decrease.

Bulgaria: With reference to costs for access to justice, recent amendments to the Administrative Procedure Code entering into force from 2019¹⁹⁹ will affect second instance appeals, and represent a substantial increase in fees as compared with the previous levels. Where there is a definable material interest in the case, a fee will be defined as a percentage of that interest. It is unclear how the value of the material interest will be defined by the court, since EIA decisions do not normally make reference to the costs of the relevant project. The uncertainty on the level

196 Ministère de la Transition Écologique et Solidaire, [Plan Biodiversité](#), Action 83,

197 Information provided by Member State

198 Austrian Parliament, [Umweltverträglichkeitsprüfungsgesetz](#)

199 [Administrative Procedure Code](#) as amended in 2018

of fees which the judge will determine, and which would be payable by citizens and NGOs bringing cases, is likely to present an unknown risk to the complainant, and thus could be a barrier to appeals against decisions of first instance courts.

Czech Republic: In some cases, the amendment of current legislative documents provokes serious concerns from various stakeholders about their right to participate in the process. An example is the last amendment to the Building Act (No. 183/2006 Coll.), which came to force on 1 January 2018. As mentioned in a recent commentary (Humlíčková, P. (2017))²⁰⁰: ‘The amendment substantially restricts the application of Section 70 and the rights guaranteed to the public concerned in that respect, only to the participation in proceedings according to the Nature and Landscape Protection Act,’ and procedures subsequent to the EIA process.

Finland: The regional reform programme re-organises the public administration in Finland and will also make changes to environmental administration and environmental permit procedures, which will have an impact on legal standing. This will affect mostly environmental authorities but also, indirectly, environmental NGOs. As part of the reform, environmental permitting will move from the regional administrative centres (ELY Centres) and Regional State Administrative Agencies to a new National Supervisory Authority (*Valtion Lupa- ja Valvontavirasto*). Currently the Regional State Administrative Agencies issue environmental permits and the ELY Centres monitor their implementation as well as having a right to appeal. In the previous drafts of the reform proposal an independent department was going to be based in the National Supervisory Authority with the right to appeal against decisions made by the new agency. The requirement of this independent department for appeals has been removed from the latest proposal. This means that the right to appeal has been removed from the authority regarding decisions made by the National Supervisory Authority.

In the Regulatory Impact Assessment of the reform proposal it is estimated that removing the authority’s right to appeal would increase the appeals from environmental associations. The Finnish Association for Nature Conservations has stated in their response²⁰¹ to these proposed changes that the state cannot assume that environmental associations, with their limited resources, should be responsible for taking over appeal responsibilities from public authorities.

Hungary: The integration of environmental and nature conservation inspectorates into County Government Offices in 2017 has created uncertainties concerning the legal standing of NGOs.

The changes in the institutional and legislative frameworks for Hungary primarily affect access to justice provisions, potentially having mainly negative implications; although some benefits might arise as well. The latter include for example, the opportunity to challenge failures to act (omissions) by public authorities in court. The Code of Administrative Judicial Procedure lays down some clearer provisions, which might make it easier to challenge administrative omissions in the future.

On the other hand, access to justice may become more challenging for a number of reasons. First, with the institutional changes, the legal standing of NGOs became more uncertain as the relevant decision of the Supreme Court does not provide unequivocal provisions in the new institutional setting. In addition, with judicial review becoming the main form of remedy, the financial burden attached to access to justice is likely to become heavier in the future. This

200 Humlíčková, P., Faltusová, N., Michek, J., Zahumenská, V. (2017), [Public participation undesirable](#), Shadow report on the application of the Aarhus Convention, p. 23

201 Alueuudistus (2018), [Yleisen Edun Valvonnan Järjestäminen Ympäristöasioissa Valtion Lupa- ja Valvontavirastossa, Kuulemistilaisuus](#) 18.1.2018

reflects the fact that additional costs – such as expert fees – can put a substantial burden on the plaintiff.

An additional barrier for those seeking legal remedies is that while an administrative appeal can be written by laypersons, a court action requires specific knowledge. In an administrative appeal, the superior authority will conduct a full review, including of the legality of the first instance administrative decision. The court on the other hand will only examine those issues raised by the plaintiff, and a claim may be dismissed if it is not properly legally argued. In other words, the courts are likely only in exceptional circumstances to conduct an *ex officio* legality check of administrative decisions.

Ireland: Legislation has been proposed by the Government to limit access to judicial review²⁰² in the case of certain decisions, including those for strategic infrastructure. We have not been able to study in detail the implications of the legislation. Moreover, the issue of costs in relation to access to justice appears likely to continue to pose problems in terms of Ireland's compliance with the Aarhus Convention.

Poland: In 2016, the government initiated a judiciary reform. This included three acts: the Law on Ordinary Courts, the Law on the Supreme Court and the Law of the National Council of the Judiciary. The introduction of those three laws was preceded by a series of acts concerning the Constitutional Tribunal. According to the 2018 report of the UN, by the Special Rapporteur on the independence of judges and lawyers, presented to the Human Rights Council, they effectively placed the judiciary under the control of the executive and legislative branches of the government, risking the capacity of the judicial authorities to uphold the rule of law²⁰³. The European Commission launched an infringement procedure, and subsequently referred Poland to the European Court of Justice, on two laws: The Polish Law on Ordinary Courts and Polish law on the Supreme Court, on the grounds of incompatibility with EU law and undermining the principle of judicial independence, with (at the time of our research) both cases still in progress and pending a decision by the CJEU²⁰⁴.

202 See for example: Irish Legal News (7 February 2018), [New bill will 'speed up' judicial reviews of infrastructure projects](#)

203 United Nations Human Rights Council (2018), Report of the Special Rapporteur on the independence of judges and lawyers on his mission to Poland, p. 1, http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/38/38/Add.1

204 European Commission (2018), Press Release [Rule of Law: European Commission refers Poland to the European Court of Justice to protect the independence of the Polish Supreme Court](#), European Commission (2017), Press release: [Rule of Law: European Commission acts to defend judicial independence in Poland](#)

6. CONCLUSIONS

The general organisational and environmental governance set up in the Member States is very complex and diverse. Member States have between two and five levels of governance and the distribution of environmental competences to different levels of administration are embedded in the constitutional and governance culture of each country. They will, in addition, be affected by geography (particularly population density, terrain), and the nature of the environmental challenges faced. It is important to understand this diversity when assessing environmental implementation. Not all Member States have managed to ensure that the full range of government responsibilities is both visible to, and understood by, ordinary members of the public and stakeholder groups. Moreover, effective coordination becomes all the more important when responsibilities are shared between different levels of government, or different sectoral agencies.

In comparison to other policy domains or other parts of the world, environmental governance in European Member States is reinforced by the broad framework of EU environmental legislation, and by specific governance aspects of that legislation (notably in terms of environmental impact assessment, public participation and transparency). In turn, both the EU and individual Member States are signatories to the Aarhus Convention, which specifies rights in terms of access to environmental information, public participation, and access to justice in environmental matters. There are a number of areas where the governance arrangements in Member States have been adapted in order to ensure compliance with the EU and Aarhus requirements, creating in effect a special set of rights and practice on environmental issues.

Specific issues emerging from our analysis of governance performance under our five dimensions of environmental governance (transparency; public participation; access to justice; compliance assurance; and efficiency and effectiveness) are identified in the relevant sections of this report. Our assessment was based on publicly available information, and therefore may not fully reflect internal government mechanisms. Broad observations on each of the dimensions can be made, and are set out below. In addition, we have identified some overarching conclusions, which are set out in the final section.

Transparency

All Member States make clear efforts towards active dissemination of environmental information but the environmental issues concerned vary. Issues which may be of direct relevance to individuals, particularly air quality, tend to have more information provided. This suggests that transparency is regarded primarily as a means of communicating directly relevant information, rather than in encouraging greater public participation in decision-making. Responses to information requests from members of the public appear to be generally good, although with significant variation in the time allowed for responses, and with concerns in some Member States on the effectiveness of processes for challenging administrative decisions to refuse access.

We recommend that **efforts to improve transparency should differentiate between different purposes**. On one hand, information may be presented for **transactional engagement** where citizens seek information in pursuit of their own protection or interests, for example information on local air quality, or on proposed new developments affecting their access to environmental benefits. On the other hand, different approaches to presenting information may be appropriate for **public interest engagement**, where citizens and public interest bodies seek information in order to be able to influence the development of environmental policy, or specific governmental decisions.

There has also been a shift from making environmental information on request, a particularly important route when the Access to Environmental Information Directive (2003/4/EC) was introduced, towards more active dissemination online. The transparency of environmental information increasingly depends on the effectiveness of the online presence of environmental bodies, particularly their websites. The quality of environmental ministry websites varies significantly between Member States; and in some cases the quality varies significantly within Member States, where different regional or local authorities place different emphasis on the issue of transparency.

Identifying in advance the sorts of information that the public will find useful is challenging and providing too complex a range of information on public websites can make them difficult to use. In particular, it can be difficult to ensure that websites do a good job in facilitating at the same time both the transactional and public interest types of engagement referred to above.

All these results in relation to Member State performance are, of course, dependent on the methodology applied. A parallel project on national environment information systems²⁰⁵ has been looking at the national information systems in more detail, looking in particular at information governance, content sharing and usability. It is interesting to compare the findings with this study. Both studies arrive at the same broad conclusion; that there is real value to sharing of experience and techniques between public administrations on approaches to website design that work well (noting that this will in many cases need to be consistent with broader Government efforts to improve online engagement with their citizens). As part of the other project, a guidance document on good practices for environmental information systems was prepared, which can be a starting point for those authorities which want to engage in such efforts.

More specifically, the following efforts at Member State level could be valuable to increase transparency:

- **Greater commitment to Open Data initiatives**, going beyond compliance with the INSPIRE directive (important though this is) and building on the new, revised Open Data and Public Sector Information Directive. The ambition should be to focus on making all relevant public information available so that third parties – including public interest organisations - can interpret it and provide summaries of it, to facilitate public understanding and engagement.
- **Improve information governance and enhance cooperation between administrations** (where a number of different levels of governance are relevant to environmental issues), so that citizens find it easy to identify both a full picture of the local environmental issues which most concern them, and which layers of government are responsible for which issues.

To foster these developments, the EU could promote competitions for the best approaches to third party use of government data, publicising the most successful ideas; and highlight the best approaches to the establishment of ‘one-stop-shops’ for environmental information.

205 [‘Promotion of best practices for national environmental information systems and tools for data harvesting at EU level’](#) (Contract No 07.0203/2017/761039/SER/ENV.E.4 of European Commission, Directorate General for Environment) - <http://www.eis-data.eu/>

Public participation

The assessment of public participation revealed that the potential for enhanced public engagement to contribute to improved and more inclusive environmental policymaking is insufficiently emphasised in most Member States. There is some initial indication of correlation between efforts at Member State level to encourage public participation, and the level of confidence among members of the public in both their ability to influence environmental outcomes, and in national governments. This is encouraging and should be explored further.

Comparable assessment is challenging and the availability of data is surprisingly low. In particular, in nearly all Member States, there is little data available on the level of public participation in practice. In some cases, there is evidence of declining or low levels of participation in environmental impact assessment procedures. There is also a tendency for public participation to focus on locally relevant issues or proposals, rather than on broader questions of environmental policy.

We recommend that **environmental administrations should focus more on both enabling and encouraging public participation** and should place **much greater emphasis on measuring the degree of public participation**, treating high levels of engagement as evidence of a healthy dialogue with citizens and public interest organisations, likely to lead to better policy- and decision-making.

More specifically, the assessment revealed that the following efforts at Member State level could be valuable to increase public participation, in particular:

- **Targets for public participation in specific decisions** (for example, those addressed by Environmental Impact Assessments) could be considered.
- **Efforts to make documentation in EIAs and similar consultations more accessible** should be encouraged, in particular through requirements to provide public summaries (which would, of course, need to be supported by continued access to the full range of relevant technical information for those members of the public who choose to investigate further).
- Building on the standards that exist in several Member States, the provisions of the Aarhus Convention, and the emphasis on participation and consultation in the context of EU Better Regulation, the potential value of the **EU setting out principles or benchmarks for public participation** in the field of environment could be considered.

Access to justice

The importance of access to justice is increasingly recognised and has proven its effectiveness in many examples across the EU²⁰⁶. It is, however, challenging to address in a broader environmental governance assessment such as this one, since this is a complex area of law in many Member States, requiring wider legal context for a full understanding.

Nevertheless, the study was able to show that environmental NGOs have progressively been granted more liberal rights to bring cases, particularly challenges to governmental decisions,

206 See for example the European Environmental Bureau's [report](#), "Challenge Accepted? How to improve access to justice for EU environmental laws", November 2019

than individuals. Other issues can still generate barriers to effective access to justice, however, particularly costs, and in some cases a lack of confidence in the effectiveness of the remedies which can be granted by the courts. The quality of the information that Member States provide to their citizens on the scope for them to access environmental justice varies, with some providing little or inadequate information.

We therefore recommend that Member States adopt an approach to improving access to justice which addresses both the **conditions under which individuals and NGOs can access the courts** and **improvements in the information provided to members of the public**. In respect of both of these aspects, we recognise that public administrations will often find it difficult to introduce measures which could be seen as making it more difficult for them to implement their own decisions. As with improved transparency and public participation, however, improved access to justice needs to be seen as an element in a robust and publicly trusted decision-making system, which better integrates the public interest in protecting the environment.

More specifically, the assessment revealed that the following efforts at Member State level could be valuable to increase access to justice, in particular:

- **Improve information:** for example by providing better general information on the websites of both environment and justice ministries, and by providing relevant information on the options available for challenging decisions at the point at which those decisions themselves are communicated. For example, individuals commenting on Environmental Impact Assessments could be offered an option of receiving information on the decision eventually adopted and that information could include details of the scope for challenging the decision either through administrative procedures or through the courts.
- **Tackle cost barriers:** for those Member States where costs are a significant barrier, further efforts could be made both to limit costs, and to provide options for well-justified public interest cases to access funding, either from public or from philanthropic sources;
- **Ensure the effectiveness of court action:** the effectiveness of the remedies available to the courts is a broader legal question going beyond the scope of the current study. However, it is clear that the potentially irreversible nature of environmental damage requires robust legal remedies to be available to the courts

The Commission has published a Notice on Access to Justice in Environmental Matters²⁰⁷ which sets out a number of recommendations on how to improve access to justice in the Member States.

Compliance assurance

Effective compliance assurance is a prerequisite for delivering the obligations set out in in EU environmental law delivering accountability of environmental administrations. Some aspects of compliance assurance depend directly on public availability of information, however. We noted significantly different approaches in the provision of information to businesses on how to comply with environmental obligations, with some good practice, alongside a number of examples where Member States appeared to be failing to provide accessible information

²⁰⁷ <http://ec.europa.eu/environment/aarhus/legislation.htm>

appropriate to the audience. The public availability of information on planning of inspections was also varied, as was the level of reporting on follow-up to cases of non-compliance and it was particularly noticeable that information on the follow-up to breaches of cross-compliance conditions for agricultural subsidies was rarely available.

The Commission and Member States have invested significant effort in improving compliance assurance, and other projects are more directly focused on developing ideas and recommendations to assist in this process. Full and effective implementation of environmental liability requirements would be an important contribution to further improvement. EU-level action is also in progress to develop guidance and share good practices, as currently developed in the context of the compliance assurance and governance action plan (for example, on complaint handling and on compliance assurance in rural areas)²⁰⁸.

More specifically, the assessment revealed that the following efforts at Member State level could be valuable to increase compliance assurance, in particular:

- Providing information to operators to whom regulation applies in language which is readily accessible, and which provides a clear description of the things they need to do and consider in order to be compliant.
- Encouraging citizen observation and reporting of environmental issues and compliance gaps, including through the use of online mechanisms and mobile phone apps to facilitate reporting. This use of citizens' information could be further enhanced by providing better and clearer information on regulated businesses, including information on inspections and enforcement notices.

In the context of providing more public information, the requirements of the General Data Protection Regulation were mentioned by some regulator stakeholders as a constraint. We do not believe that these concerns are based on a correct interpretation. If the interpretation is correct, however, there would seem to be a strong case for amendment of the legislation to avoid this unintended impact.

Effectiveness and efficiency

The issues considered under the effectiveness and efficiency dimension were wide-ranging, and in many cases closely linked to other dimensions. Working on this dimension can help deliver environmental results in the context where significant gaps persist and resources are limited.

Several Member States appear to be making progress on implementing online portals and one-stop shops, which can help to address problems associated with dispersed government responsibility for environmental issues. While many Member States in principle have in place systems for regulatory impact assessment which integrate environmental issues, effective practice in this area seems to be much rarer. A number of Member States have chosen not to introduce an overarching strategy on environmental policy and its implementation: further study on the effectiveness of such strategies, and whether the existence or effectiveness of comprehensive strategies is linked to the complexity of the organisational structure in each Member State, could be valuable.

While it is clear that general restrictions on public expenditure following public expenditure policy decisions in the wake of the 2008 financial crisis have had an impact on environmental

208 http://ec.europa.eu/environment/legal/compliance_en.htm

authorities, we have not sought to identify if the impact on environmental authorities is greater than in other sectors. Some evidence suggests that, unsurprisingly, resource cuts in environmental administrations have made it more difficult for some Member States to close their implementation gap. Given the increasing urgency of issues such as climate change, biodiversity protection, water management and resource efficiency, and the rapid approach of planetary boundaries, **austerity measures should as far as possible spare environmental regulators.**

More specifically, the assessment revealed that the following efforts at Member State level could be valuable to increase effectiveness and efficiency, in particular:

- Making more **use of one-stop-shops for public administration**, particularly where environmental responsibilities are spread among a number of tiers of public administration, to ensure that the public and regulated entities have a simpler route to securing relevant information.
- **Enhanced use of regulatory impact assessments**, as a means of improving public engagement in decision-making. We would recommend avoiding narrow cost-benefit based approaches, which risk reducing decisions to abstract or technical discussions on valuation; and instead identifying more clearly the ways in which different approaches to a policy area or specific decision place value on different public and private benefits.
- **Analysis of administrative capacities** and resources in the field of environmental protection, and their adequacy for delivering environmental obligations;
- Review and, where necessary, **improve coordination mechanisms**;
- **Make more use of digital solutions** and promote eGovernment initiatives in the environmental administration.

At EU level, there is increasing awareness that structural reforms and public administration excellence are essential for delivering EU policies and legislation. The 2017 Toolbox on the Quality of Public Administration²⁰⁹ gives many examples of good practices across Member State administration.

Overarching conclusions

This project has aimed at developing an approach to assessing environmental governance, and an initial application of that assessment framework to the situation in the Member States. It has not explicitly addressed the question of the link between good environmental governance and either environmental outcomes or effective implementation of environmental legislation, particularly EU legislation. However, it is clear from our assessments that a positive approach to environmental governance enhances the likelihood of good implementation. In the case of the compliance assurance and effectiveness and efficiency dimensions, of course, the link is straightforward and almost definitional. In addition, in the transparency, public participation, and access to justice dimensions, co-opting public interest and enthusiasm on environmental issues appears to be linked to improvements in implementation.

209 European Commission “[Toolbox 2017 edition - Quality of Public administration](#)”

Improvements in environmental governance can therefore, as suggested by the 2019 Environmental Implementation Review (see below), be an important element in improving both compliance with environmental legislation and environmental outcomes. However, the range of governance structures and approaches across the EU reflects a diversity of Member State characteristics, in terms of population density, population size, physical geography and the resulting environmental issues, cultural choices, and history. There is neither a demand for nor a convincing rationale for a standard EU approach to environmental governance, beyond the existing governance elements of EU environmental legislation. However, approaches and choices on environmental governance should be more often outcome driven and help achieving the desired, positive effect or, at least, not be counterproductive towards achieving the desired outcomes.

Identifying the contribution that policy and action at EU level can make to improving environmental governance therefore needs to address these issues. There is potential for significant improvement through the following actions at EU level:

- exchange of good practices;
- identification of key elements of environmental governance that are associated with improved outcomes; and
- a better understanding of the contribution that can be made by transparency, public participation, and the role of the public and of public interest organisations in pursuing environmental objectives.

We recommend that activity at EU level and discussion between the Commission, Member States, and other stakeholders focuses on these elements, complementing the continuing focus on ensuring implementation of relevant EU legislation. Through the EU Compliance and Governance Forum, there is already a platform in place where these issues can be discussed and directed.

At Member State level, over-arching environmental strategies or plans are used by some, but not by others. More widespread use of this approach could be valuable as a means of providing greater public visibility of the relative priorities for environmental outcomes and of the progress made (or not made) in addressing environmental challenges. Monitoring of strategies or plans, which could be incorporated in Member State monitoring of wider progress against the Sustainable Development Goals, would also encourage greater accountability, and early identification of areas where more resources or effort is needed. For this purpose, it would also be desirable that all Member States apply a high level of transparency and share information on their approach in relation to all the five environmental governance dimensions. Based on the experiences of this study, it would be useful if there were a common understanding at EU-level on what type of information is needed on environmental governance, and how this can be made available for comparative analysis without creating an undue additional administrative burden.

A final overarching observation, based on our assessments, is that while the Aarhus Convention and EU legislative requirements on environmental governance have created what in many Member States is a distinctive and different relationship in environmental policy between Governments on the one hand, and NGOs and citizens on the other hand, efforts at government level to maximise the benefits of that relationship have been disappointingly few. The underlying rationale for a specific public and NGO role in respect of the environment is that the environment represents a shared common good, which lacks its own voice. Allowing individual citizens and NGOs to act as a proxy for its interests provides collective benefits. In general, however, the approach adopted by Governments has been to deliver compliance with the legal obligations of EU legislation and the Aarhus Convention, often at a minimum level.

This means that implementation does not focus on the positive objectives behind the legal obligations, and there is little or no monitoring of the impacts in terms of enhanced engagement and enhanced environmental protection. The lack of data availability in nearly all Member States on public participation in practice is striking. A greater focus on, for example, ensuring uptake of public participation and other rights, including through improved monitoring, could make a valuable contribution to the future development and implementation of environmental policy. **We recommend that improving public participation should be one focus of discussion between the Commission and Member States as the environmental governance assessment framework is further developed.**

7. LIST OF ANNEXES

Annex 1 Assessment framework (Scoping note)

Annex 2 Summary of the literature review and review of assessment frameworks

Annex 3 Member State environmental governance assessments and country fiches

Note: The environmental governance assessments and the country fiches are made available at the European Commission website under the link: http://ec.europa.eu/environment/environmental_governance/index_en.htm and at the [CIRCABC](#)

Annex 4 Reports of the stakeholder workshops

Annex 5 Criteria for categorisation of Member States performance

Annex 6 Best practices identified

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Annex 1

Development of an Assessment Framework on environmental governance in EU Member States

Assessment Framework

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1 Introduction

1.1 About this scoping paper

This paper sets out the rationale and scope of the framework for assessment under the project on environmental governance. It has served, inter alia, as guidance for the Member State assessments in the project, and as the basis for the identification of data sources (initially for the pilot countries and subsequently after revision for all EU Member States); and was refined over the course of the project, including in response to stakeholder comments.

1.2 Assessment framework structure and data sources

The assessment framework is organised in three levels of aggregation:

- **Level 1:** aggregation to the level of dimensions, the five dimensions listed in the Commission terms of reference (ToR) for this project plus a “context” dimension.
- **Level 2:** aggregation to the level of themes.
- **Level 3:** individual indicators or assessment criteria, per theme.

The assessment was done in two steps:

- **Overall assessment** across the environmental policy domain.
- **Specific assessment** to the extent practicable, feasible, and relevant in some or all of the following seven areas: air, nature, water, chemicals, industrial, and waste as well as horizontal legislation (such as Environmental Impact Assessment (EIA) and Strategic Environmental Assessment (SEA), and access to environmental information). Where appropriate (for example where there is also a lack of horizontal data), a specific area may be selected for illustrative purposes and in order to focus resources.¹

The sources of data that were identified for consideration included EU documents, reports and outputs from related EU projects, and projects of intergovernmental organisations and non-governmental organisations. Key comparative data from existing assessments were provided in standardised form, together with a short description of key issues identified in the Environmental Implementation Review (EIR) country reports, and key environmental policy issues identified in publications such as the European Environment Agency (EEA) State of the Environment reports. Sources of data also included (others are listed under specific themes in chapter 2 of this note):

- OECD SIGMA assessment of public administrations
- Outputs from the project on "environmental information portals" ²
- Outputs from the project on Article 17 INSPIRE (national data policies and access to information)³
- Outputs from the scoping study on compliance assurance assessment
- Outputs from a parallel project assessing implementation of the Environmental Liability Directive.

1.3 Definition of environmental governance

Our working definition of “environmental governance” is as follows:

“An inclusive system of actors, institutions and norms that establishes responsibility and accountability, and builds trust and capacity to cooperate in policymaking, decision-making, implementation and enforcement, in the field of environment.”

Good governance can be distinguished from other systems of social problem-solving by the self-organization of autonomous actors and groups. In turn, the “inclusivity” factor requires that governance mechanisms take into account distribution of power, information and knowledge.

1.4 Environmental Governance and the Environmental Implementation Review (EIR)

The 2017 EIR included an assessment of environmental governance in each Member State, which included information on the following elements:

- Efficiency/Effectiveness
- Compliance assurance
- Public participation
- Information

The current environmental governance project aims at broadening and deepening the governance assessment, especially in the areas of: implementation of EU law based on the Aarhus Convention, compliance assurance, environmental liability, information and reporting. The terms of reference for our project also specify an indicative, non-exhaustive list of five dimensions of environmental governance⁴:

- Transparency
- Accountability
- Rule of law
- Participation
- Effectiveness and efficiency

¹ Under the project, the initial assessment covered to some extent 14 out of the 21 identified themes, as described in Section 3 below.

² See presentations 7a and 7b (http://ec.europa.eu/environment/legal/reporting/workshops_en.htm) for initial information, more details will be provided by DG ENV.

³ DG ENV will provide more information on this.

⁴ Alternatives to this structure that were suggested in discussion at the kick-off meeting included the use of criteria used in the [EU Justice Scoreboard](#), and the use of the list of root causes for ineffective implementation identified in the [2016 EIR Communication](#) (COM/2016/316 final). Basing the assessment on the EU Justice Scoreboard does not seem to adequately address the specific environmental dimension of the EIR, including in particular the Aarhus Convention commitments of the EU and its Member States; and the use of the EIR 2017 root causes (ineffective coordination; lack of administrative capacity/funding; lack of knowledge and data; lack of compliance assurance mechanisms; and lack of integration and policy coherence) applies to all the elements of the EIR, not just to governance, and risks expanding the scope of the project too widely.

These dimensions were slightly revised, in the final version of the assessment framework, with the three Aarhus pillars (transparency, participation, and access to justice in environmental matters) grouped together; a change from the heading “rule of law” to “access to justice”, to better reflect the detailed nature of the issues addressed and to avoid confusion with the wider rule of law issues addressed by Article 2 of the Treaty on European Union; and the inclusion of compliance assurance together with accountability. This yields the following structure:

- Transparency
- Participation
- Access to justice
- Compliance assurance and accountability
- Effectiveness and efficiency

Based on the terms of reference, our proposal and other related background documents, we identified potential themes under the five dimensions. The allocation of some themes to a specific dimension was somewhat arbitrary; and there is significant conceptual overlap among them. This scoping paper also identifies some types of broader contextual information to be collected for each Member State, and aims to identify points where there is overlap with the EU Justice Scoreboard, the European Public Administration Country Knowledge (EUPACK) study, and other relevant processes, setting out in each case how the project will make use of information from those sources while focusing specifically on the environmental governance context.

Two further elements to be borne in mind in the development of criteria/indicators under each theme are:

- **Progress over time.** Some themes may need to be further developed in future iterations of the EIR; and all themes should provide for future analysis of changes in performance over time.
- **Link to broader governance performance.** Environmental governance can be compared to broader governance performance. It will be important to avoid duplication with the Justice Scoreboard and EUPACK study; but in several areas, environment-specific performance may differ from broader performance, and these differences could be instructive for the EIR’s identification of underlying causes of poor implementation and enforcement.

In parallel with the identification of the themes to be covered by the environmental governance assessment, the project team was identifying criteria for assessment, in the form of specific questions which researchers for each of the Member States could be asked to investigate, and which should, as far as possible, yield comparable information for each Member State. As described in section 2.3 of the main final report, an iterative process was followed:

- An initial allocation of questions and criteria to themes;
- A search for further questions or sources of information for themes for which it proved initially difficult to identify questions likely to yield comparable data;
- Testing the resulting template through an initial set of three pilot assessments; and then
- Adapting and refining the template progressively through the course of the project.

As part of our approach to ensuring comparability of information between Member States, we developed some standard scenarios which were then tested by the researchers, for example in establishing whether specific types of information were available, or in assessing how access to justice provisions would apply in practice. The selection of questions in each theme is described in more detail in section 2 below.

1.5 Overview of dimensions and themes for assessment

An overview of dimensions and themes proposed for assessment in the country specific studies is presented in Table 1 below. A detailed presentation of each theme, including the links to other themes and dimensions and data sources to be explored is presented in chapter 2 of this document.

Table 1 Overview of themes and their allocation to dimensions

Context	Transparency	Participation	Access to Justice	Compliance assurance and accountability	Effectiveness and Efficiency
Multi-level governance culture in Member States (1)	Evidence and Reporting (2)	Public Participation/ Stakeholder engagement (5)	Practical information (9)	Promotion, Monitoring, Enforcement (14)	Enabling financing (17)
	Access to information (3)	Public participation in planning and permitting processes (6)	Access to justice (10)	Complaint handling (15)	Administrative Capacity (18)
	Reliability/quality of information (4)	Public confidence (7)	Effective remedies (11)	Liability (16)	Cross-sectoral coordination (19)
		Equitability and inclusiveness (8)	Judicial capacities (12)		Integrated assessment (20)
			Preventing corruption (13)		Flexibility/ adaptability (21)

2 Environmental governance dimensions and themes

This section sets out our initial analysis of the themes under the scoping phase of the project; identifies for each the sources of information that we envisaged using; and then describes the selection of the relevant criteria retained for each theme in the final version of the assessment template.

2.1 Horizontal theme: the context for environmental governance

2.1.1 Multi-level governance culture

Under “multi-level governance culture”, we describe key elements of each Member State’s broader embrace of governance that are relevant for environmental issues; in particular, application of the subsidiarity principle, consultation with interested bodies and groups, pluralism, and respect for civil society are briefly discussed.

A short description is provided of the extent of devolution of responsibility for: (i) environmental policymaking, (ii); implementation of environmental legislation, and (iii) access to justice; to regional and local level, identifying any differences between the seven different areas of environmental policy (e.g. land use; water; air quality).

Another important horizontal issue related to governance culture is the eGovernment readiness of environmental administrations. While partly a capacity issue, eGovernment readiness reveals how administrations prioritize certain elements of governance, particularly those elements that facilitate participation, ensure transparency, foster cross-sectoral coordination, and provide the basis for effective administration.

Finally, the reform dynamics of environmental administration and the openness of public authorities to innovation are briefly introduced at this stage. This issue could include elements related to ex-post evaluation or the use of Regulatory Impact Assessment.

This theme includes relevant summary information from the EUPACK study, supplemented by specific information on the role of environmental implementation bodies, and their relationship with central and other levels of government; it also includes an account of the approach to flexibility in environmental policy implementation choices (are implementation bodies required to follow a rigid process and criteria, or are they allowed to exercise judgement and discretion?).

Link to other dimensions and themes:

- Administrative capacity
- The eGovernment readiness of environmental administrations relates to several themes such as transparency (Pollutant Release and Transfer Registers (PRTR), requests, etc), effectiveness and efficiency, compliance assurance (complaint handling, responsiveness)
- Reform dynamics and innovation support in environmental administrations relate to “flexibility/adaptability.”

Sources of data to be explored:

- EUPACK study
- EIR 2017
- EEA State of the Environment country reports
- Findings of a study on “Effective multi-level environmental governance for a better implementation of EU environment legislation” published by the European Committee of the Regions in 2017⁵.
- OECD BEEP Questionnaire (burdens to entry and competition associated with environmental policies).
-

2.2 Transparency

2.2.1 Implementation evidence/reporting, including Environmental Information Systems (SEIS, Copernicus, PRTR)

To assess how authorities in EU Member States gather environmental information relevant to their functions in the implementation of environmental law and how they report such information where required (between authorities and from the national level to the EU) we look at the existing monitoring and reporting activities at local, regional and national level along the “Driving Force – Pressure – State – Impact – Response” (DPSIR) cycle in the selected areas with a focus on bodies in charge, timing (frequency and timeliness), completeness and quality of the compiled and reported data and compliance with EU legislation, reporting tools, contribution to EEA priority data flows, and burden for public administration. In terms of information gathering tools it is important to look at how each Member State uses electronic reporting databases for environmental purposes and relevant guidance documents. Assessment addresses all structured environmental information systems. In the area of reporting on the implementation of EU legislation, the assessment in particular addresses the INSPIRE Directive in terms of relevant priority (spatial) datasets and designation of structures and mechanisms for coordinating, across the different levels of government, and the contributions of all stakeholders.

Link to other dimensions and themes:

This theme is linked to several others, particularly Access to Information and themes involving EIA/SEA, permitting and other instruments.

Sources of data to be explored:

- New national information systems project of DG ENV
- National environmental legislation
- National environmental inspectorates or equivalent bodies
- Status of implementation of the INSPIRE Directive – 2016 Country Fiches
- Deliverables of the project "Support to the Fitness Check of monitoring and reporting obligations arising from EU environmental legislation"
- EIONET (ROD)
- Infringement proceedings and InfoCuria
- EEA reports
- Assessments of monitoring capacities

Selection of criteria

It proved challenging to identify questions that could address this topic in a comparable way, on the basis of publicly-available information in each Member State. We therefore relied on information which could be derived from existing centrally-available sources. The questions included in the final template made use of information from published Commission assessments of progress under the INSPIRE directive, and uptake of the use of data from the Copernicus earth observation programme.

2.2.2 Access to information (accessibility of databases, information requests)

Environmental information held by public authorities should in principle be open to the general public, unless data includes confidential elements or is otherwise protected by rules on data protection. We assess how access to information is guaranteed in legal provisions (compliance with the Access to Environmental Information Directive - Directive 2003/4) and in practice (for instance how easy is it to find given environmental data using a simple internet search in the national language of the Member State?). We look at: delivery mechanisms used by the governments to provide access to information, external oversight (e.g. Ombudsman), and relevant dispositions concerning data confidentiality. Our assessment distinguishes between data accessibility on request and active publication of data, as well as the issue of charges for information. Moreover, the way in which such information is communicated to the public is also important. Whether there is a "one stop shop" and whether the information is easily accessible and understandable are important issues to consider.

Link to other dimensions and themes:

This theme is linked to several others, particularly Access to Information and themes involving EIA/SEA, permitting and other instruments.

Sources of data to be explored:

- National environmental legislation
- Google browser and national most popular browser
- EIONET, PRTR, Copernicus
- Reports from the Member States under Article 9 of Directive 2003/4 (as a basis for search of more up to date information on the issues covered in the reports that are from 2009-2010 in most cases)
- The Aarhus Convention Implementation Report (draft, and final when available) and public consultation outcomes (opinions/questions and replies)
- Aarhus Convention Compliance Committee records
- Infringement proceedings and InfoCuria

⁵ <https://cor.europa.eu/en/documentation/studies/Documents/Environmental-governance.pdf>

Selection of criteria

The questions included in the final template made further use of INSPIRE information, and in addition analysed national legislation on access to information, its implementation in practice including through the courts, the extent to which fees were charged for the provision of information, and performance in respect of the timeliness and openness with which information was provided on request. We assessed the proactive provision of information on each of the seven areas of environmental policy; and developed two scenarios to enable a more detailed assessment of the provision of information, looking at, respectively, information on air quality, and on river basin management plans under the Water Framework Directive.

2.2.3 Reliability/quality of information (including the extent to which policy is informed by science and other evidence)

Quality of environmental information relies on the robustness of monitoring and the knowledge base in the Member States. We assess the ways in which Member States monitor key environmental indicators, with a focus on completeness, accuracy, and timeliness of the collected information (data collection and storing tools and procedures, practices, administrative capacity, initiatives to improve data collection) and how it is used in the context of (i) reporting obligations (e.g. overlap with key performance indicators on the implementation and effects of EU environmental legislation) and (ii) informing policy making at national level. Regarding the available knowledge base, mapping the scientific bodies cooperating with national authorities and/or initiatives to inform policy making with the latest scientific evidence, as well as an overview of the types of information gathered in conducting relevant impact assessments, can improve the understanding of the extent to which national practice facilitates policy making based on scientific evidence.

Link to other dimensions and themes:

All transparency themes, also those related to EIA/SEA, permitting and other instruments.

Sources of data to be explored:

- National environmental inspectorates or equivalent bodies
- Reports with results of environmental monitoring (focus on methodologies)
- Assessments of monitoring capacities (including real-time monitoring)
- Statistics and qualitative data on EIAs and SEAs carried out
- Official websites of the relevant ministries.

Selection of criteria

The questions included in the final template sought to elicit information about the overall quality of information used as the basis for policy, lawmaking and decisionmaking. We gathered information about the use of scientific expertise by environmental authorities, distinguishing as to whether the bodies were independent. We also sought to assess the quality of information used in environmental impact assessment by analysing the sources of information. As an indicator for capacities in this area, we used the timeliness and quality of data reported to EIONET in 2016.

2.3 Participation

2.3.1 Public participation/Stakeholder engagement

Under this theme we assess (i) the extent to which Member States engage with interested stakeholders, including public authorities at different levels, NGOs, the regulated community, scientific and academic institutions, and the public at large; (ii) the extent to which Member States facilitate public participation in decision-making, both in a narrow sense of compliance with the EU *acquis* aimed at Aarhus Convention requirements for public participation in decisions relating to specific sectors and activities, but also in a wider sense of public engagement in policymaking; and (iii) the extent to which the stakeholders participate in practice. The assessment for each Member State takes into account the analysis of citizen participation in the EUPACK project.

Link to other dimensions and themes

This theme is relevant to a range of transparency, participation and access to justice themes, in particular access to information and access to justice.

Sources of data to be explored:

- Member State detailed statistics on public participation under EIA and SEA processes (where available)
- Information on public consultation on major developments in, and major changes to, environmental policy
- Aarhus Convention Compliance Committee records
- Data collected for all EU Member States and presented in Eurobarometer 2017 Attitudes of European citizens towards the environment on public perception of the extent to which an individual can play a role in protecting the environment
- Consumer Conditions Scoreboard.

Selection of criteria

A question concerning primary and secondary legislation related to [Directive 2003/35/EC](#) was aimed at assessing the level of implementation. We further investigated whether public authorities facilitate public participation through various means and gathered information on the extent to which the public actually participates in practice, including quantitative data where available. By making use of Eurobarometer surveys we could assess the level of participation in NGOs, the trust of the public in NGOs, and attitudes as to whether NGOs influence policy and decisionmaking, as well as whether individuals believe they have real opportunities to participate.

2.3.2 Public participation in planning and permitting processes (EIA/SEA)

Planning processes and permitting/authorization at project level provide numerous entry points for good environmental governance. The EIA Directive, the SEA Directive and the Industrial Emissions Directive are key elements in the EU's (and Member States') implementation of requirements on public participation, environmental information, and strategic environmental assessment. The key elements of EIA/SEA relevant to good environmental governance include access to information, timeframes, fees and taking participation into account. We draw on information from Member State reports on implementation; Commission research projects; and CJEU and Aarhus Convention Compliance Committee records to assess the contribution made in practice in each Member State by the EIA and SEA to effective environmental governance. The IED is discussed further under "Effectiveness and efficiency."

Under this theme, the use of ex-post evaluation or Regulatory Impact Assessment may also be analysed.

Link to other dimensions and themes

This theme is relevant to many other themes, including access to information; cross, sectoral coordination, and integrated assessment.

Sources of data to be explored:

- Espoo Convention IC compendium of interpretative excerpts
- Member State data on EIAs and SEAs carried out
- Information reported to the Commission by Member States under the SEA Directive (article 12) and the EIA Directive (article 12)
- OECD BEEP Questionnaire

Selection of criteria

To determine the quality of public participation in EIA and SEA procedures, country experts were asked to identify an actual case study and to assess several factors in relation to it. The ideal case study involved a TEN-T site above a threshold value with an impact on a Natura 2000 site and an EIA carried out within the last five years. The questions included both quantitative (number of comments) and qualitative (quality of response document) elements. The public availability of information about public participation in EIA and SEA was also considered to be an important indirect indicator of the quality of such assessments.

2.3.3 Public confidence in institutions

Public confidence in institutions is an essential ingredient of effective policy making. Without trust in public institutions dealing with environmental policies, the general public may offer little support to implementation of policies, which is very likely to result in a lower level of compliance with environmental legislation. While it may be difficult to find public confidence or public service satisfaction data relevant only to the institutions dealing with environmental matters in each EU Member State, it is possible to explore and compare the available data on trust in governments and public institutions in general.

Link to other dimensions and themes:

This theme is linked to the public participation theme, as mistrust in the way the public institutions function may discourage the general public from active involvement in environmental decision-making and public participation. It is also linked to Complaint Handling, since a lack of confidence in institutions will lead to the reluctance to file complaints with relevant authorities.

Sources of data to be explored:

- EUPACK project deliverables
- Annual surveys on trust, quality of service delivery (where available)
- OECD government at glance
- Standard Eurobarometer 87, published in August 2017 (QA8a)

Selection of criteria

For public confidence in institutions there are several existing robust assessment frameworks that can be used. We chose three horizontal indicators from three different assessment frameworks – confidence and satisfaction in government institutions from OECD Government at a Glance 2017; executive capacity and accountability from Bertelsmann Stiftung Sustainable Governance Index; and perceptions of judicial independence from Eurobarometer Survey.

2.3.4 Equitability and inclusiveness

The ability to solve complex environmental problems requires the harnessing of the capacities of all members of society. Good environmental governance involves an equitable approach to various groups and individuals and is based on notions of inclusiveness. Issues related to equitability and inclusiveness range from fair and equitable access to resources, to taking into account gender considerations, to the impact of digitalization on inclusive access. These issues in turn make up a component of regulatory governance, which can be broken down into regulatory oversight, stakeholder engagement, regulatory impact assessment and ex post evaluation (OECD).

Link to other dimensions and themes:

This theme is linked to administrative capacity; public participation; cross-sectoral coordination.

Sources of data to be explored:

- EU PACK
- Relevant Member State statistics
- OECD Regulatory Governance (Regulatory Policy Committee)

Selection of criteria

The questions included in the final template covered several kinds of vulnerable groups. We looked specifically at gender equality, people with disabilities, and minority language speakers. For gender equality, the questions made use of the EU Justice Scoreboard and the work of the European Institute for Gender Equality and took into account the proportion of women in key professions. An online program that tests websites is an ingenious way to assess the accessibility

of government information to people with disabilities. Using the European Charter for Regional or Minority Languages as a reference, the assessment looked into whether specific environmental information was readily available in the recognized languages in the respective Member States.

2.4 Access to justice

One of the baseline references for environmental governance with respect to the access to justice dimension is the Commission Notice on Access to Justice in Environmental Matters, C(2017) 2616, 28.4.2017. The Notice shows that access to justice is based on fundamental principles of EU law as well as specific directives and the Aarhus Convention. Access to justice in environmental matters is seen as an important means for improving Member States' implementation of EU environmental law without the need for Commission intervention. The Aarhus Regulation, meanwhile, improves transparency and accountability of the EU institutions. Also to be taken into account is relevant Court of Justice EU case law that has emerged since the adoption of the Notice in April 2017, particularly on issues such as legal standing and costs.

2.4.1 Practical information on access to justice

This theme is aimed at ensuring that the public is aware of its opportunities for Access to Justice and that authorities understand the benefits of Access to Justice in terms of support to environmental governance and sustainability. Where authorities are supportive of the role of the public in environmental governance, they are more likely to partner with the public, and one of the ways in which this partnership can work is through the use of access to justice mechanisms in appropriate cases. Assessment of this theme looks into whether Member State practice is compliant with relevant CJEU judgements, and whether authorities make use of interactive tools including websites to convey information about practicalities, and whether they go beyond the mere publication of information to provide various forms of guidance. This theme is related to the European Semester goal of improvement of national judicial systems.

Link to other dimensions and themes

Access to Justice; access to information; reliability/quality of information. This theme is also related to the Transparency dimension.

Sources of data to be explored:

- National reports submitted to the Aarhus Convention Secretariat in accordance with Decision IV/4 on reporting requirements
- Relevant MS statistics
- Efforts on implementation of relevant CJEU decisions and MOP decisions based on findings of the Aarhus Convention Compliance Committee
- Good practice as identified by EUJFE
- EU Synthesis Report on Access to Justice (2015)
- EU Justice Scoreboard

Sources for indicators and structured questionnaires include UNITAR National Profile Assessment Framework, UNEP Bali Guidelines Guide and Aarhus Convention Indicators, among others.

Selection of criteria

The main assessment tool with respect to this theme was a snapshot survey of existing websites of the relevant environmental public authorities to determine whether information about opportunities for access to justice is readily available, clear, complete and understandable. Furthermore, we developed two scenarios to enable a more detailed assessment of access to justice, looking at, respectively, an approval of an infrastructure project that may have an impact on a Natura 2000 site, and an inadequate or missing air quality action plan for a non-attaining municipality. The national assessment used these scenarios to investigate the quality of practical information on access to justice available with respect to the specific mechanisms for the relevant legal challenges.

2.4.2 Access to justice (legal standing, costs)

This theme involves assessment of the extent to which Member States grant access to justice in matters relevant to environmental governance, in particular those judicial and non-judicial mechanisms that support implementation of the relevant Directives and the Aarhus Convention and their provisions related to access to information, public participation, and enforcement of environmental law. Linked to the other Access to justice themes, this particular theme focuses more on the access of the public to specific procedures. One important element in access concerns whether the Member State has adopted liberal standing provisions and how standing rules are applied in practice. The non-discrimination principle and general standards as to fairness, equity and timeliness can be assessed. Other barriers to access to justice are assessed, i.e. those related to costs and delay. Sources for indicators and structured questionnaires include Aarhus Convention Indicators, UNITAR National Profile Assessment Framework, and UNEP Bali Guidelines Guide.

Link to other dimensions and themes

This theme is linked to access to information; public participation.

Sources of data to be explored:

- National reports submitted to the Aarhus Convention Secretariat in accordance with Decision IV/4 on reporting requirements
- Relevant Member State statistics
- Efforts on implementation of relevant CJEU decisions and MOP decisions based on findings of the Aarhus Convention Compliance Committee
- Good practice as identified by EUJFE
EU Synthesis Report on Access to Justice (2015)
EU Justice Scoreboard

Selection of criteria

After further refinement, the assessment of general access to justice focused on the issues of standing and costs as the most important potential enablers or obstacles to access to justice in environmental matters. Information on standing in practice could be gathered from several sources, including national reporting to the Aarhus Convention Meeting of Parties, the EU Justice Scoreboard, and the EUJFE Synthesis Report on Access to Justice. Because of the approach of the Aarhus Convention and the relevant EU Directives, organizational standing has received a great deal of attention in national law and practice. However, individual standing is also important to assess. The assessment made use of the two scenarios on approval of an infrastructure project that may have an impact on a Natura 2000 site, and an inadequate or missing air quality action plan for a non-attaining municipality, to test whether there would be any obstacles to standing for an organization or individual to challenge the relevant decision or omission. We also asked questions about the practice within the Member State in applying controlling decisions of the CJEU, as well as quantitative data on the number of environmental cases. Finally, we assessed the nature of costs associated with legal challenges, their relative affordability, and the measures that Member States have undertaken to reduce cost barriers to access to justice in environmental matters in accordance with the Aarhus Convention requirements.

2.4.3 Effective remedies

Good environmental governance depends upon society's confidence that its system of justice can grant adequate and effective remedies in proper cases. It is a fundamental element of EU law contained in the Treaty on European Union that 'Member States shall provide remedies sufficient to ensure effective legal protection in the fields covered by Union law.' The right to an effective remedy is also enshrined in Article 13 of the European Convention on Human Rights. With respect to environmental matters, the Commission Notice sets forth access to justice requirements including the principles of equivalence and effectiveness. This theme examines the availability of such remedies in environmental cases as well as their use. It is necessary to inquire not only about the power of courts (the availability of certain remedies under law) but also, if discretion is granted to courts, their willingness to grant appropriate remedies (i.e. the courts' use of their discretion). These remedies include injunctive relief in accordance with Article 9 of the Aarhus Convention. Compensation and restitution may be required in some cases. The effectiveness of remedies means that they should be capable of being carried into effect, that is, enforceable.

Link to other dimensions and themes

This theme is linked to Access to justice, compliance assurance, and public confidence. It is also linked to the Accountability dimension, particularly in regard to the liability theme, where compensation and restitution often arise.

Sources of data to be explored:

- National reports submitted to the Aarhus Convention Secretariat in accordance with Decision IV/4 on reporting requirements
- Relevant Member State statistics
- Efforts on implementation of relevant CJEU decisions and MOP decisions based on findings of the Aarhus Convention Compliance Committee
- Good practice as identified by EUJFE
- EU Synthesis Report on Access to Justice (2015)
- EU Justice Scoreboard

Sources for indicators and structured questionnaires include UNITAR National Profile Assessment Framework, UNEP Bali Guidelines Guide and Aarhus Convention Indicators, among others.

Selection of criteria

Using the same sources of information, the assessment aimed at determining the range of remedies available in cases where the public successfully challenges the legality of actions or omissions by authorities in environmental matters. Again, the assessment made use of the two scenarios on approval of an infrastructure project that may have an impact on a Natura 2000 site, and an inadequate or missing air quality action plan for a non-attaining municipality, to describe the remedies that could be available in each case. Where information was available, Member States were also assessed on the effectiveness of available remedies.

2.4.4 Judicial capacities; training and information events

This theme involves assessment of the extent to which Member States build and support the capacity of courts, tribunals, and other legal officers at various levels to implement environmental law in the context of the elements of judicial effectiveness, i.e.: independence, quality and efficiency. This may include mechanisms to foster awareness and information exchange on good practices towards achieving sustainability, as well as encouraging relevant institutions, such as judicial training centres, to provide continued legal education. Efforts may take place on the national level as well as at the EU level, such as through the EUFJE and ENPE. The longer-term impact of training organized through the European Institute of Public Administration and the Academy of European Law, as well as the EC's Cooperation with Judges Programme can be assessed.

Sources for indicators and structured questionnaires include UNITAR National Profile Assessment Framework, UNEP Bali Guidelines Guide and Aarhus Convention Indicators, among others.

Link to other dimensions and themes

effective remedies; administrative capacity.

Sources of data to be explored

- National reports submitted to the Aarhus Convention Secretariat in accordance with Decision IV/4 on reporting requirements
- Relevant MS statistics
- Efforts on implementation of relevant CJEU decisions and MOP decisions based on findings of the Aarhus Convention Compliance Committee
- Good practice as identified by EUJFE
- EU Justice Scoreboard

Selection of criteria

The questions included in the final template investigated the capacities of the judiciary to address complex environmental issues by determining whether the Member State has tribunals or panels specialized on environmental matters; the extent to which judicial training takes environmental law into account; and the quantity and quality of capacity building efforts aimed at judges on environmental law.

2.4.5 Corruption issues relevant to the environment (permitting, natural resources, environmental crime)

The assessment does not address general corruption issues identified through the EU Justice Scoreboard (and to some extent through the EUPACK assessment), but, based on the information from those two sources, can identify specific issues of relevance to environmental policy for further investigation. Such issues include (i) licensing and permitting; and (ii) extraction of natural resources.

Link to other dimensions and themes:

Corruption often exists in the context of permitting and other administrative procedures; thus, particularly linked to administrative capacity and enforcement.

Sources of data to be explored:

Data sources to be considered include both the Justice Scoreboard and EUPACK assessments, as well as national court cases, and assessments from the OECD and organisations such as Transparency International (focusing on information specific to the environmental sector). The OECD BEEP Questionnaire may also provide relevant information.

Selection of criteria

As it became apparent that information about perceptions, instances or levels of corruption is not easy to break down specifically to environmental issues, general corruption indicators had to be used. Nevertheless, the identification of significant environmental corruption issues could be done qualitatively. Given that inspectors, police and customs frequently play a role in environmental matters, the Special Eurobarometer Survey 470 on perception of corruption among such authorities served as a general indicator.

2.5 Compliance assurance and accountability

Measures taken to assure compliance with relevant EU environmental law and to improve accountability include monitoring, detection, inspection, enforcement and partnership with the public. The Commission's Compliance Assurance Action Plan, in particular the conceptual aspects explained in the Staff Working Document (SWD(2018) 10 final), provides the background for the assessment of this aspect of environmental governance, taking into account the recommendations contained in the ECA Scoping Study⁶. The Commission's approach to compliance assurance has three dimensions: organisation, activities (interventions) and governance (coordination and participation). The governance dimension includes procedures and protocols (including coordination across agencies and authorities), complaint handling, transparency and participation (see figure).

⁶ U:\10.12 INSPECTIONS\Study compliance assurance assessment framework\Final deliverables send on 21.12.17\ECA Scoping study_Final_March 2018.doc.

Figure 1: Aspects of Compliance Assurance



Source: *Towards an Improved Assessment of Environmental Compliance Assurance, Scoping Report (COWI, Feb. 2018).*

The articulation between the different sub-themes is as follows. 2.5.1 is aimed at a broad look at features of compliance assurance systems and practices. 2.5.2 focuses on the key area of complaint-handling and citizen engagement. The first two sub-themes are the most closely related to the actions in the Commission Action Plan. Sub-theme 2.5.3 looks at environmental liability, given that the EU has created a common legal framework on this. 2.5.4 looks at corruption since this is a key cross-cutting topic and all systems of compliance assurance need to be corruption-free.

The assessment framework makes use of examples of compliance assurance from the fields of waste and wildlife, due to the availability of information in these areas.

2.5.1 Compliance promotion, monitoring, follow-up and enforcement

While this theme broadly involves various aspects of monitoring, inspection and enforcement, we focus on those specific elements that have been identified in the Commission's Staff Working Document on Environmental Compliance Assurance.⁷ We therefore assess the three broad classes of environmental compliance assurance intervention indicated in that document:

- Compliance promotion, which helps duty-holders to comply through means such as guidance, 'frequently asked questions' and help-desks. This represents the 'preventive' part of compliance assurance.
- Compliance monitoring, which identifies and characterises duty-holder conduct and detects and assesses any non-compliance, using environmental inspections and other means. This represents the 'diagnostic' part.
- Follow-up and enforcement, which draw on administrative, criminal and civil law to stop, deter, sanction and obtain redress for non-compliant conduct and encourage compliance. These represent the 'corrective' part.

Environmental governance pays special attention to cooperative mechanisms that relate to each of the three classes of intervention, with respect to issues such as: (i) for compliance promotion, increased attention to implementation throughout the policy cycle with the help of preventive measures; (ii) the planning, carrying out, following up and reporting on environmental inspections, and (iii) domestic enforcement of environmental laws and permits, including use of graduated compliance tools as enforcement mechanisms. Measures related to the above may require the engagement of stakeholders and other affected persons.

Enforcement also includes response to the infringement procedures by the European Commission or relevant decisions of the CJEU.

Link to other dimensions and themes:

A wide range, including in particular administrative capacity; multi-level governance culture

Sources of data to be explored:

- National environmental inspectorates, police, and customs websites including relevant statistics
- Google and most popular national browser to test the accessibility of national compliance assurance systems)
- Relevant studies available on DG ENV website
- Outputs from the current project on compliance assurance
- IMPEL assessments, studies, findings, cases, etc.
- OECD BEEP Questionnaire

⁷ SWD(2018) 10 (final), 18.1.2018.

Selection of criteria

A broad range of questions was included to assess compliance promotion, monitoring and enforcement, as it was identified in discussion with the Commission, and with stakeholders, as being a key element in environmental governance. As examples of promotion activity, we looked at how Member States provided information to farmers on how to comply with nitrates legislation, and to landowners on how to comply with biodiversity protection legislation. We also looked at the planning of inspections under the Industrial Emission Directive, and whether inspections activity, and follow-up activity to address shortcomings, were published online; at whether statistics on environmental crime in general, and more specifically on follow-up to breaches of the Nitrates Directive and the Habitats Directive, were published. As an additional element in monitoring of compliance, we looked at Member State use of earth observation and geo-spatial information. Finally, we looked at how well administrations cooperate across sectors, using the example of wildlife crimes; and at training activities within enforcement authorities, and participation in the IMPEL network, which shares information and best practice among enforcement bodies across the EU.

2.5.2 Complaint handling and citizen engagement in enforcement

This theme identifies how public complaints about environmental issues are dealt with by administrations, including both an outline of formal arrangements, and an account of experience in practice. It is aligned with Action 7 in Annex 1 of the Staff Working Document, aimed at applying good practices for handling environmental complaints and organising citizen science submissions from the public by developing a reference document. It further investigates openness to new forms of citizen engagement in enforcement that take advantage of public interest and involvement, including those reliant upon citizen science.

Data sources used include information compiled at national or regional level; and (for comparative purposes), where available, information from the Commission on complaints it receives in respect of individual Member States; literature considered includes the 2012 report by Volkéry et al for the Commission.⁸ We aim to identify the main environmental sectors concerned by complaints. This theme links to Responsiveness (point 10), and public participation (point 17), and the effectiveness of complaint mechanisms are influenced by several themes identified under the Transparency dimension.

⁸ [“Study on environmental complaint-handling and mediation mechanisms at national level”](#), Volkéry et al, IEEP 2012

Responsiveness is an important factor in complaint handling. The interaction between those seeking public services and those responsible for providing such services can shape societal relations in many ways. A positive experience in which the authorities are responsive to the member of the public's needs can lay the groundwork for cooperation and partnership, thus improving governance, whereas a lack of responsiveness and poor service delivery can have the opposite effect. The OECD and other organizations have been working with public authorities to improve service delivery and boost confidence and trust in the public sector. The assessment of this theme involves zooming in on environmental matters to measure government responsiveness to public requests. This theme relates to the EU's Better Regulation narrative, which is about transparent evidence-based governance taking into account views of citizens and stakeholders alike. The interaction between authorities and members of the public also gives an opportunity to achieve better understanding on matters related to subsidiarity and proportionality.

Link to other dimensions and themes:

Effective remedies, transparency

Sources of data to be explored:

- EU PACK
- Relevant MS statistics
- OECD Responsive Government Indicators, Observatory of Public Sector Innovation

Selection of criteria

We identified two dimensions of complaint handling: first, the approach to complaints about environmental issues (for example, odour or noise nuisances; and secondly, complaints about perceived failures by environmental authorities to carry out environmental tasks. For both, we looked at how easy it was for a citizen to find information on how to file a complaint, and whether the information available provided links to relevant legislation, or guarantees about how the complaint will be handled. We then looked at how easy it was to file complaints, and whether data was published on the handling of complaints and their outcome. For the first dimension, we also looked at whether there was a possibility to ensure confidentiality of the complainants identity, and the extent to which the public authorities were seen as being independent from political bias or private interests – both of which we considered to be important in encouraging the public to report problems. For the second dimension, we looked at whether an ombudsman or similar body existed, and its activities. On citizen engagement, we looked for evidence of awareness-raising activities to inform citizens of the potential to alert the authorities to environmental issues; and at the extent to which citizen science inputs were encouraged and used.

2.5.3 Environmental liability

We build on the governance aspects of the implementation and enforcement aspects of the Environmental Liability Directive in each Member State from the first and second ELD projects under the ELD Multi-Annual Work Programme 2017-2020 (as made available to us) so as not to duplicate the work under those projects. In addition, we provide data on initiatives taken by Member States and competent authorities in those Member States to increase awareness, implementation and enforcement of the ELD, particularly with reference to the trend in many Member States to continue to enforce less stringent domestic legislation in lieu of the ELD. This theme links particularly also to the dimensions of Accountability, Participation and Access to justice.

Link to (other) dimensions and themes:

- Accountability: Strict liability of Annex III operators who caused environmental damage to prevent and remedy damage to protected species and natural habitats, water damage and land damage; fault-based liability of non-Annex III operators to prevent and remedy damage to protected species and natural habitats
- Participation: Article 12 ELD: right of eligible persons to request action by competent authority
- Access to justice: Article 13 ELD: right of legal review for eligible persons before a court or another independent body

Sources of data to be explored:

- ELD Report and REFIT Evaluation 2016
- ELD Multi-Annual Work Programme 2017 – 2020
- Support for the REFIT actions for the ELD – phase 2 (during 2018, requires updates)
- National ELD registries, websites and data bases
- Relevant Member State statistics
- ELD country fiches 2019, consulted in their draft version of November 2018

Selection of criteria

In order to avoid duplication our project made use of draft outputs from parallel research undertaken in support of the Commission's REFIT action on the Environmental Liability Directive. For each Member State, we identified information from Member State draft reports from the parallel project, including a general description of ELD implementation, and information on any ELD cases including, when the information was available, whether they involved land damage, water damage or biodiversity damage. We also noted whether each Member State had introduced mandatory financial security for ELD liabilities and whether voluntary financial security, such as insurance, was available for such liabilities.

2.6 Effectiveness and efficiency

The dimension of Effectiveness and efficiency includes themes related to resource issues, including financial, human and technical capacities. Mechanisms, procedures and tools for policy coherence and integrated decision-making are also major components of effectiveness and efficiency. These include cross-sectoral coordination, EIA/SEA, integrated permitting, and other mechanisms aimed at flexible, adaptive governance. Attention to this dimension facilitates achievement of SDGs. Many of the themes under this dimension also bear a relation to the European Semester, including actions related to the goal of the circular economy.

2.6.1 *Enabling financing and absorption of funds*

Under this theme, we look at each Member State's method of financing its environmental policies with a focus on each Member State's sources of funds in selected sectors, allocation of public expenditure to environmental protection per level of governance, EU funding and the absorption rates under relevant funds and their budget lines. Elements to be examined include: how public authorities encourage absorption of available funds for environmental investment (e.g. access to information about funding opportunities); existence of domestic environmental finance tracking; systems of earmarking of funds collected through fiscal and other market based instruments to environmental protection; the institutional set up for distribution of funding, and its quality (e.g. expertise of staff in charge). In addition, the quality of practice in identifying financing needs through ex ante evaluations and assessments of selected policies and programmes can be examined.

Link to other dimensions and themes:

multi-level governance, administrative capacity.

This is a theme that could not produce detailed, reliable information in the short term, and has been considered to be part of the second phase of assessment. The pilot phase tested availability of information in relation to this theme.

Sources of data to be explored:

- National ministries websites
- ESIF Open Data portal
- LIFE Programme database
- Capacity Building for Environmental Tax Reform findings
- National ex ante evaluations and assessments or other documents assessing domestic investment needs in environmental matters

Selection of criteria

We looked at general information on how Member States encouraged the uptake of funds for environmental investment; at whether there were any systems of earmarking funds from fiscal instruments for spending on environmental protection; and at the Member State's promotion of green public procurement. Having experimented with a range of possible approaches to assessing Member State focus on environmental investment as part of their use of EU funding, we recognised that there were problems in comparability of data in respect of the LIFE programme. We have instead presented data on allocation of funds to the "Environment Protection and Resource Efficiency" theme under the European Structural and Investment Funds, although we have focused on the European Agricultural Fund for Rural Development in our comparative analysis. Finally, the OECD Government at a Glance, and OECD Survey on Public Procurement provided the basis for an assessment of the measures in place to support green procurement in the respective Member State.

2.6.2 Administrative capacity (environmental inspectorates, police, customs, prosecution services and audit bodies)

Assessment of administrative capacity of environmental inspectorates, police, customs, prosecution services and audit bodies in terms of their governance structure, inter-institutional coordination, budgets, human resources, main perceived bottlenecks and good practices, trainings, international cooperation and knowledge sharing is made under this theme. An attempt to compare the gravity of the selected environmental issue(s) in Member States, the stringency of legal provisions addressing the issue, and administrative capacity to implement and enforce the relevant laws can be of value here. Importantly, administrative capacity and digitisation of environmental information sharing are looked at jointly, as there may be instances where the lack of adapted electronic tools negatively affects the administrative capacity to deliver on environmental matters (and inversely – the abundance of data enabled by electronic reporting does not match the existing administrative capacity to process the data).

For example, the IED concerns the obligation to operate with a permit (Art 4 and 5 IED), in line with strict permit conditions which are detailed in Art 14 IED (based on BAT, emission limit values, emission monitoring requirements etc.). Considering the individual approach of each permit, and the need to set emission limit values based on the actual capacity of an installation to reach a certain level of environmental performance through the use of one or more best available techniques, the accuracy of the permit to achieve its objectives will to a large extent depend on the availability of well-informed, trained competent authorities. The same applies for what concerns its implementation, and the availability of well-trained inspectors, and the possibility to suspend operations in case of serious non-compliance (see Art 8 IED).

Link to other dimensions and themes:

An essential element in the delivery of a wide range of other themes (particularly cross-sectoral coordination and public confidence), and is itself influenced by multi-level governance culture.

Sources of data to be explored:

- EU PACK study
- Official websites of the relevant bodies

- Statistics relevant to public enforcement in environmental matters
- National legislation and evaluations
- Quality of Public Administration Toolkit⁹
- IMPEL and Envicrimenet assessments, findings, cases, etc.
- OECD BEEP Questionnaire

Selection of criteria

We asked researchers to identify the number of staff dealing with environmental matters in public institutions; however, the information proved difficult to compare, given differences in Member State size, administrative structure, and the delineation of what are considered as “environmental” functions. We also looked at the use of one-stop shops to facilitate access to the services of environmental administrations, using REFIT (Regulatory Fitness and Performance Programme) as a reference point; and at whether customs authorities or prosecution authorities had dedicated environmental units. Some of the criteria used in assessing administrative capacity was based upon the extensive data generated through IMPEL, for example the absolute numbers and proportion of public servants engaged in environmental matters, broken out by type of institution.

2.6.3 Inter/cross-sectoral coordination

This theme recognises the intersectoral nature of sustainable development and explores how Member States have moved from a tradition of sector-specific planning and decision-making towards greater employment of intersectoral coordination mechanisms. SDG policy-making, planning and reporting are themselves intersectoral mechanisms. Other important intersectoral coordination mechanisms include climate change mitigation and adaptation planning, integrated permitting, and interministerial coordination bodies related to particular resources such as water bodies. Intersectoral considerations also help ensure the coherence of a MS’s environmental policies. Institutions, processes and mechanisms established to enhance intersectoral coordination should address different levels of authority, policy cycles and planning processes, and should engage stakeholders and affected communities. Awareness of differences across sectors helps MSs to balance the effects of sectoral policies, avoiding rivalries and inefficiencies.

Using ‘effective and efficient’ permitting as an example, the assessment can look at issues such as timely delivery, proper involvement of civil society and fulfillment of the obligations on public access/public participation, updating of permits to take into account new BAT conclusions, and an individualised approach towards setting Emission Limit values.

Many MSs have valuable experience applying the ecosystem approach in the governance of particular natural assets such as river basins or coastal zones. New assessment frameworks such as the water-food-energy-ecosystems nexus boost MS’s capacity to cooperate across sectors and to enhance environmental governance. Other tools that may enhance cross-sectoral coordination include ex-post evaluation and Regulatory Impact Assessment.

⁹ <https://publications.europa.eu/en/publication-detail/-/publication/01afe9c9-d582-11e7-a5b9-01aa75ed71a1/language-en>

Link to other dimensions and themes:

administrative capacity, multi-level governance, equitability/inclusiveness.

Sources of data to be explored:

- SDG reporting
- Pilot nexus assessments in selected river basins
- Relevant MS statistics
- OECD BEEP Questionnaire

Selection of criteria

A key question for assessing the level of inter-sectoral cooperation was the progress the Member State had made in implementing the UN Sustainable Development Goals, which are inherently cross-sectoral in nature, including the allocation of funding to their implementation. As voluntary national reporting on SDG implementation is a key component of the 2030 Agenda, we considered voluntary reporting to be another important indicator of the extent to which SDGs are integrated into national agendas. A quantitative criterion we looked at was the Member State's score on the Environmental Performance Index 2018. We also looked at whether the Member State had adopted an overarching environmental strategy, as part of the implementation of the EU 7th Environmental Action Programme and the presence of relevant indicators.

2.6.4 Integrated assessment and planning tools

This theme is one of those that falls under more than one dimension. EIA and SEA – together with evolving new assessment forms such as Nexus -- are tools or instruments for integrated decision-making. These complex processes and procedures are at the heart of the transition towards sustainability. EIA in fact is approaching a global customary legal norm linked to the principle of prevention of harm. The practice in relation to these integrated assessment tools, their robustness and the respect accorded to them are therefore strong indicators of a MS's quality of environmental governance. Other forms of integrated assessment including Regulatory Impact Assessment may also be reviewed.

Link to other dimensions and themes:

SEA/EIA; cross-sectoral coordination; administrative capacity; multi-level governance culture.

Sources of data to be explored:

- SDG reporting
- Espoo Convention/SEA Protocol reporting
- Environmental Performance Reviews
- Relevant MS statistics
- Infringement procedures
- OECD BEEP Questionnaire

Selection of criteria

The integrated and assessment planning tools theme required the use of criteria involving original research on the national level as there is comparatively less available information in this area. We assessed the extent to which EIA/SEA are integrated within other processes and asked for a qualitative assessment as to the manner of cooperation among authorities. We also looked at regulatory impact assessments, in order to get an understanding of how well environmental issues were considered alongside other policy objectives; aspects we asked researchers to investigate included whether there was a standard cross-Government approach to regulatory impact assessment, the extent to which RIAs in other sectors considered environmental issues, and whether there was a central website providing information on RIAs (to test whether the process of analysis was transparent, and open to challenge).

2.6.1 Flexibility/adaptability

Environmental governance to be effective must be flexible and adaptive. A rigid approach to implementation of law and policy, without attention to the effects of such application, does not allow the Member State to learn from practice and to make adjustments through appropriate feedback loops to make implementation more effective and efficient. Important factors in flexibility and adaptability derive from a culture of responsibility, accountability and awareness. This theme is therefore linked to others including public confidence in institutions, responsiveness and compliance assurance. Feedback mechanisms are also critical in testing and learning from the application of environmental law and policy in practice. The Recommendations for Minimum Criteria for Environmental Inspections (RMCEI) make use of a feedback mechanism to trigger considerations for improvements in order to meet the goals of the legislation. Lessons learned can result in changes to the conditions of a class of permits, in order to make such permits more enforceable, or in some cases to initiatives to redraw guidance, implementing regulations, or even the legislation itself. Moreover, the readiness of the environmental administrations regarding electronic solutions can be covered. The eGovernment action plan and its scoreboard look at this in more general terms.

Link to other dimensions and themes:

cross-sectoral coordination; equitability/inclusiveness; access to information.

Sources of data to be explored:

- SDG reporting
- IMPEL reporting
- Environmental Performance Reviews
- Relevant MS statistics
- EUPACK study on reform dynamics
- OECD BEEP Questionnaire

Selection of criteria

We considered that the pressure to adapt and to respond to feedback is highly dependent on the structure of online interaction between authorities and the public. Therefore, we assessed the use of electronic services with particular attention to the aspects of online spaces that enable direct dialogue between authorities and the public. To provide context on the overall approach of the Member State to digital public services, we also looked at the Member State score from the “Europe’s Digital Progress” report from 2017. We looked at the broad question of the openness of the environmental authorities to feedback from the European Commission, or other stakeholders (although we recognised that information here was likely to be largely anecdotal. Finally, we also looked at the existence of mechanisms for regular consultation with relevant civil society organisations.

2.7 Further contextual information

One potential weakness of any assessment based on publicly available information is that it will tend to focus on a static picture, or be biased towards those areas of performance where information happens to be available. To address these risks, we also included a section of the assessment allowing researchers (or Member State authorities, when commenting on the assessments) to identify any new or planned environmental governance initiatives (linked to the contextual information addressed in the first section of the assessment on the multi-level governance culture), as well as a more general question on the outlook for environmental governance. This additional section, together with a further section allowing researchers to identify specific areas of governance in the Member State which they considered could be viewed as good practice, completed our assessment template.

Annex 2

Development of an Assessment Framework on environmental governance in EU Member States

Literature Review

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Introduction

The Literature Review has two parts. Part 1 consists of the analysis of a set of significant assessment frameworks relevant to one or more of the dimensions and themes of environmental governance as set forth in our Assessment Framework. The analysis focuses on each framework's relationship to environmental governance, the good practices and limitations of the framework, and its relevance to specific themes. Part 2 is a partial reference and bibliography of the major sources and materials consulted in the development of our Assessment Framework and/or used by the country experts in the conducting of the Member State assessments.

PART I. ANALYSIS OF ASSESSMENT FRAMEWORKS AND THEIR RELEVANCE FOR THE ENVIRONMENTAL GOVERNANCE ASSESSMENT

Following is a list of the assessment frameworks that were reviewed in the course of the project. The frameworks were identified through desk research and consultations with the European Commission services in the framework of the project Steering Committee.

1. e-Government benchmark report by DG CONNECT
2. EU Justice Scoreboard 2017
3. EU SDG Indicator Set
4. The World Justice Project Rule of Law Index 2017-2018
5. Flash Eurobarometer 2017 and Standard Eurobarometer 2017
6. Reporting frameworks under the Aarhus Convention
7. Digital Single Market Scoreboard by DG CONNECT
8. UNITAR framework relating to Rio Principle 10
9. Bertelsmann Sustainability Governance Indicators
10. OECD Environmental Performance Reviews
11. Environmental Liability Directive Study Reports
12. Aarhus Convention Indicators
13. European Public Administration Country Knowledge (EUPACK)
14. Monitoring of progress under the EU Energy Union
15. European Quality of Government Index 2017
16. IMPEL Review Initiative
17. IMPEL 2015 Implementation Challenge Report and 2016 and 2017 Follow Up
18. "Towards an improved assessment of environmental compliance assurance"
19. Outputs from Umbrella Cooperation Program between World Bank and DG Regio

As might be expected, there was broad concurrence between the frameworks and the dimensions, although often a particular analysis tended to be more relevant towards specific themes within a dimension. Those frameworks with the most relevance to Environmental Governance Assessment across the board, touching upon many or all of the dimensions, included the EU SDG Indicators, Reporting framework under the Aarhus Convention, UNITAR Framework relating to Rio Principle 10, Bertelsmann Sustainability Governance Indicators (SGIs), OECD Environmental Performance Reviews, ELD Study Reports and Impel Review Initiative.

Broken out by the five dimensions, the Framework Analyses point to a number of good practices relevant to Environmental Governance Assessment.

Valuable insights for the **Transparency** dimension were found in a majority of the frameworks examined. The relevant frameworks consist of the European Quality of Government Index, Aarhus Convention reporting frameworks and Aarhus Convention indicators (in particular Access to (environmental) information and Collection and Dissemination of Environmental Information), E-government benchmark report, Environmental Liability Directive Study Report (establishment of the EU-wide register and partially to the EU SDG Indicator set), UNITAR framework (in the domain of access to information), Flash Eurobarometer, Digital Single Market Scoreboard, EUPACK (relevant for Access to information and Compliance assurance and accountability dimensions), Energy Union (evidence/reporting, but also reliability and quality of information), IMPEL (environmental information), and the Umbrella Cooperation Program between the World Bank and DG Regio (access to information).

As for the **Participation** dimension, it is covered by the Umbrella Cooperation Program between World Bank and DG Regio, EU SDG Indicators (equitability/inclusiveness theme), Eurobarometer (public confidence and public participation), Aarhus Convention Reporting Frameworks, Aarhus Convention Indicators, EU Energy Union, UNITAR (stakeholder engagement), Digital Single Market Scoreboard (particularly related to citizens' digital skills), Bertelsmann SGI ('Society and Environment' section integrated in some 2017 reports), Environmental Liability Directive Study Reports (articles 12 and 13), the European Quality of Government Index (public confidence, and equitability and inclusiveness), and IMPEL (public confidence).

Fewer assessment frameworks overall are relevant to the special content of the **Access to justice** dimension. Its four themes are covered by the EU Justice Scoreboard and The World Justice Project – Rule of Law Index, and to a lesser extent by the EU SDG Indicator Set, Eurobarometer, UNITAR Framework, OECD Environmental Performance Reviews, Environmental Liability Directive Study Reports, EQI, Umbrella Cooperation Program between the World Bank and DG Regio (practical Information theme), and the Aarhus Convention Indicators.

The **Compliance assurance and accountability** dimension has been enhanced by using the insights from the following Framework Analyses: EU SDG Indicator Set (through the relevant findings on exposure to pollution), The World Justice Project Rule of Law Index, Reporting Frameworks under the Aarhus Convention (inspection, enforcement, public mobilization, compliant handling, corruption issues and environmental liability), UNITAR Framework (liability), Bertelsmann SGI (the "executive capacity" dimension under the governance pillar offers important insights into cross-sectoral coordination, administrative capacity, integrated assessment, and flexibility-

adaptability), ELD study reports (concerning strict liability regimes), EUPACK (three sections: 'Government transparency and accountability', 'Policy-making, coordination and regulation', and 'Key indicators to assess government capacity and performance'), "Towards an improved assessment of environmental compliance assurance" (mostly due to its methodology), and the Outputs from Umbrella Cooperation Program between World Bank and DG Regio (all of the themes). Partially relevant are also the OECD Environmental Performance Reviews, EU Energy Union progress reporting, and IMPEL Review Initiative, particularly to the theme of compliance monitoring, follow-up and enforcement, including the issue of cooperation of environmental authorities in compliance assurance.

Aspects of the **Effectiveness/Efficiency dimension** are mentioned in the EU SDG Indicator Set (administrative capacity, cross-sectoral coordination, integrated assessment, and flexibility/adaptability), UNITAR (administrative capacity and enabling financing), Bertelsmann SGIs (cross-sectoral coordination, administrative capacity, integrated assessment, flexibility-adaptability), OECD Environmental Performance Reviews (policy-making environment section), EQI and IMPEL Review Initiative (administrative capacity of environmental authorities and cooperation with environmental civil society organizations, with regard to Green IRI), IMPEL 2015 and 2017 follow-up (administrative capacity), Public Sector Governance Indicators (enabling financing, administrative capacity, flexibility/adaptability). While only vaguely, the Reporting Frameworks under the Aarhus Convention and EU Energy Union progress reporting are somewhat relevant to this dimension.

Finally, information relevant for the additional **Context** dimension can be gleaned from the findings in the e-Government benchmark report by DG CONNECT and the reporting frameworks under the Aarhus Convention (the role of civil society). Additional insights appear in the Digital Single Market Scoreboard, UNITAR Framework (useful for the horizontal dimension), OECD Environmental Performance Reviews (background information) and EU Energy Union progress reporting.

Moreover, much has been learnt from the ways in which data were represented and visualized (interactive maps, scorecards, and spider graphs), which not only point to the main findings, but increase transparency by allowing country-to-country or country-to-regions comparisons.

The Framework Analyses were developed over time during the course of project implementation, taking account of new developments as they arose. The incorporation of insights from the analyses therefore was incomplete, particularly in cases where a specific analysis became available at a later date or was conducted in a later phase. Consequently, some of the positive aspects of the Framework Analyses point to potential improvements or enhancements in aspects including data collection and methodology in future applications of the Environmental Governance Assessment framework (particularly through the mixture of qualitative and quantitative methods or introducing innovative methods such as 'mystery shoppers').

The table below extracts the positive aspects of the reviewed assessment frameworks with relevance to Environmental Governance Assessment from the full descriptions that follow.

Summary table: Relevant positive aspects of Framework Analyses

Framework Analysis	Relevant positive aspects
e-Government benchmark report by DG CONNECT	<ul style="list-style-type: none"> • Points to the discrepancies among the countries when it comes to online services (useful for EG) • Possibility to compare and contrast with the last two biannual assessments • The methodology of “Mystery shoppers” – individuals trained to inquire about the public service process (analogous to “snapshot survey”) • Grid-presentation of top-level indicators: the visual aspect which allows for easier country-by-country comparison. • Points to the potential pitfalls of approaches that cluster countries • Pinpoints the major gaps and trends in the specific field which will be increasingly relevant for environmental governance
EU Justice Scoreboard 2017	<ul style="list-style-type: none"> • Minimum level of elaboration: useful for future comparisons • Transparent and well-explained data sources and methodology • Illuminates the Access to justice dimension
EU SDG Indicator Set	<ul style="list-style-type: none"> • Visual presentation of progress over time • Solid introductory section which outlines the methodological approach • Both holistic and compartmentalized approach: while the separate SDGs are worked out in detail, the overall findings are outlined in the introduction • Great overall relevance of the SDGs for EG – discerning the nuances is somewhat more difficult
The World Justice Project Rule of Law Index 2017-2018	<ul style="list-style-type: none"> • Relies on primary data and focuses on the multifaceted dimensions of the access to justice • Interactive online platform allowing to look at country-specific data • Offers a working definition of the rule of law, giving special attention to protecting public health and the environment
Flash Eurobarometer 2017 and Standard Eurobarometer 2017	<ul style="list-style-type: none"> • Attitudes of citizens towards EU regional policy • Key trends elaborated in a separate document, with graphs looking at major developments over the years

Reporting frameworks under the Aarhus Convention	<ul style="list-style-type: none"> • Includes not only the governments, but also the non-governmental actors • Highly relevant for Transparency, Participation, and the Access to justice dimension, given its nature
Digital Single Market Scoreboard by DG CONNECT	<ul style="list-style-type: none"> • Noticeable gap in digitization process between the top performing players and the lower performing countries: this can be of use in understanding potential pitfalls for environmental governance • Video format for the presentation of findings
UNITAR framework relating to Rio Principle 10	<ul style="list-style-type: none"> • Environmental governance issues broken down into policy areas, tailored across three dimensions (information, public participation and access to justice) • Information section broken down to relevant scenarios, including data on hazards/emissions, environmental quality (by sectors), and nature protection and biodiversity • Includes non-environmental groups (not confined to NGOs) in decision-making processes relevant for EG • Tailored to developing countries; would need adjustment for EU MSs
Bertelsmann Sustainability Governance Indicators	<ul style="list-style-type: none"> • Visual presentation: graph that allows identification of strengths and weaknesses • Manifold comparison possibilities, including comparing progress, with an OECD/EU filter • Mixed methods used • Six-stage peer review to diminish the bias of researchers
OECD Environmental Performance Reviews	<ul style="list-style-type: none"> • Conclusions and recommendations relevant for EGA • Each year, 2-3 draft reports on OECD countries (2018: Czech R. and Hungary) • Useful references
Environmental Liability Directive Study Reports	<ul style="list-style-type: none"> • Focus on operations that may cause environmental damage • Method to cover EU level (ELD) and domestic law of MSs • Template for an EU-wide information system (register) including details of cases and an IT tool to support the register
Aarhus Convention Indicators	<ul style="list-style-type: none"> • Substantive indicators on performance • Guidance notes relating to the practice indicators
European Public Administration Country Knowledge (EUPACK)	<ul style="list-style-type: none"> • Points to good practices with regard to public administration and governance

Monitoring of progress under the EU Energy Union	<ul style="list-style-type: none"> • Focuses on issues of governance between the EU and the Member States levels, rather than governance within Member States (which can also be considered a limitation) • Interactive viewing and export tools related to the Energy Union indicators
European Quality of Government Index 2017	<ul style="list-style-type: none"> • Interactive maps, scorecards and spider-graphs allow benchmarking and comparison to EU average • Country-to-country and country-to-region comparison
IMPEL Review Initiative	<ul style="list-style-type: none"> • External peer review of structure of environmental authorities, targets capacity building • “Green” IRI focusing on nature conservation (Birds and Habitats Directives)
IMPEL 2015 Implementation Challenge Report and 2016 and 2017 Follow Up	<ul style="list-style-type: none"> • Questionnaire focusing on challenges of implementation of environmental <i>acquis</i> • Addresses cross-cutting, trans-boundary and trans-sectoral issues • Evidence base for policymakers (for instance, the 2017 Follow Up shows a lack of engagement with local authorities who have a critical role in environmental compliance assurance in many (but not all) countries)
“Towards an improved assessment of environmental compliance assurance”	<ul style="list-style-type: none"> • Recommendations relevant for EG: creating a solid baseline focusing on sector or country-specific challenges • Flexible assessment framework tailored to address different legal cultures and administrative set-ups in the MSs • Limited number of assessment criteria and questions (in order to have a balanced framework)
Outputs from Umbrella Cooperation Program between World Bank and DG Regio	<ul style="list-style-type: none"> • Questionnaires submitted to private sector organizations • Entails qualitative analysis as well as quantitative • Focus on policy over regional institutions

Detailed framework analyses

1. e-Government benchmark report by DG CONNECT

Introduction

This document is the 13th report on online public (e-Government) services in the EU, done on a biannual basis – the last one conducted in 2014-15. The research is conducted in EU member countries, as well as Switzerland, Iceland, Montenegro, Serbia, Norway, and Turkey. The methodology for e-Government benchmarking was established by the eGovernment Benchmark Framework 2012-2015. The top-level indicators- benchmarks established for measuring progress in e-government are: *user centricity, transparency, cross-border mobility and key enablers (the availability of five technical elements essential for public services)*. Overall, the report reveals that the acceleration in performance is congruent with the formation of a ‘Digital Diagonal’ of countries from South-West to the North-East of Europe (Austria, Germany, Denmark, Estonia, Spain, Finland, France, and the Netherlands) performing above the average – a substantial number of countries are still lagging behind in both progress and performance across the top-level indicators.

Overall relationship to environmental governance

The findings of this report are only of partial relevance for environmental governance, particularly for the *Multi-level Governance Culture*, as well as the *Transparency dimension* of EG. Since transparency is one of the main benchmarks within the methodological approach, it can be related to one of the major themes of environmental governance. The findings, particularly those relevant to the discrepancies among the countries with regard to the level of online services, could have important implications for environmental governance, mainly related to the transparency of public services. However, the indicators, assessment criteria, and data used and provided in the e-Government benchmark report are not specific to environmental governance.

Good practices

The report is a continuation of the eGovernment Action Plan and can be compared to the last two biannual assessments (2012-13, and 2014-15). The same performance benchmarks are used for each of the reports, which allows comparison over time along the established indicators.

The methodology of Mystery Shoppers, trained and briefed to act as prospective users to observe, experience, and measure a public service process, is an innovative approach to data collection. One of the clusters identified on the basis of the interaction of mystery shoppers with government was related to environmental and parking permits, where the progress has been noted (from 27% of fully online services in 2012-13, to 35% in 2014-15).

The findings for the top-level indicators are presented on a grid, thus enabling comparison of the progress of each country separately from the last biannual report.

Limitations

The standard deviation (between best and worst performers) is growing since the first biennial measurement (2012). Also, the clustering of countries in groups according to their performances within the “benchlearning”¹ approach could lead to overlooking of a specific country’s particular features and creating a false impression that countries appearing in the same cluster necessarily share features and require identical solutions and practices. While the framework for benchmarking is clearly and explicitly stated, the sub-indicators and related questions are omitted from the report.

Relevance to specific themes

The *insight report* could be relevant for the *Multi-level Governance Culture*, as well as *Transparency* dimension of EG, in particular 2) Access to Information and 3) Reliability/quality of information. Almost all of the findings related to transparency in e-Government are relevant for the dimensions, in particular the transparency of public organizations’ operations, accessibility of personal data to users, as well as the transparency of service delivery procedures. On the other hand, the information related to Environmental Governance has to be extrapolated from the general information provided within the particular findings. The persisting difficulties in starting a small claims procedure online due to lack of transparency, quality and cross-border solutions, remain among the major challenges for overall transparency, and can thus be related to broader governance issues (access to justice).

However, the priorities set out in the new (2016) EU eGovernment Action Plan will have a significant impact on Environmental Governance, as they are dealing with improvements related to the two key dimensions: improving accessibility through mobile-friendly websites and ‘digital by default’ - half of European countries have made one or more services mandatory online.

Conclusions

Overall, this report provides a comprehensive guide on the level of development in online public services, but also identifies major gaps and trends that can potentially serve as an indicator for the uneven accessibility to public services, and ultimately affect environmental governance. Perhaps the main observation related to the progress made in comparison with the report is the uneven progress and sharp differences among the countries, and the appearance of a ‘Digital Diagonal’.

The indicators and assessment criteria are partially relevant for some themes related to environmental governance, in particular the *Multi-level Governance Culture* and the *Transparency* dimension, and can be taken into consideration especially given the sharp differences among the countries exposed by the findings. However, the lack of engagement with environmental aspects of governance significantly reduces the possibility of utilizing the findings of this report for the specific assessments related to environment.

¹ “The benchlearning approach clusters the countries investigated into groups. These groups are based on shared communalities between the countries. The indicators used are based around three subjects: Government supply, eGov demand, Environment – readiness of the background.” (p.7)

2. The EU Justice Scoreboard 2017

Introduction

The “EU Justice Scoreboard”² (hereinafter, the Scoreboard) is a comparative information tool that provides an annual overview of the independence, quality and efficiency of national justice systems in the EU Member States.³ The aim of such a comparative overview is twofold: it aims at assisting Member States in identifying potential shortcomings, improvements and good practices as well as trends in the functioning of national justice systems over time; at the same time, the overview aims at increasing the effectiveness of EU law.

The Scoreboard makes use of indicator sets with respect to three main parameters, i.e., efficiency, quality and independence. As to the methodology, large parts of quantitative data arise from an annual study of the CEPEJ, the Council of Europe Commission for the Evaluation of the Efficiency of Justice (data are provided to CEPEJ by Member States according to CEPEJ methodology); other data sources are the group of contact persons on national justice system and various justice-related networks.

Overall relationship to environmental governance

The Scoreboard does not concern environmental governance or overall governance as such, but only a component of (the overall concept of) governance, namely the independence, quality and efficiency of national justice systems in the EU Member States. Thus, indicators, assessment criteria and data used and provided in the Scoreboard are not specific to environmental governance.

Good practices

The Scoreboard mainly relies on actual data, with a minimum level of elaboration; this allows the use of the same data under future, different assessments.

Indicators concerning the perceived levels of independence of courts and judges by the general public and companies are now included in the 2017 version of the Scoreboard; data source is the Eurobarometer and methodology for administering the surveys is well explained.

The 2017 version also includes indicators on use of information and communication technologies (ICT) in justice systems (e.g. in communication between lawyers and courts) based on a survey.

The Scoreboard is a useful source of data concerning a few themes of (direct or indirect) relevance for the assessment of environmental governance performances in the Member States, mainly as far as the access to justice is concerned.

Limitations

² https://ec.europa.eu/info/strategy/justice-and-fundamental-rights/effective-justice/eu-justice-scoreboard_en.

³ The 2017 EU Justice Scoreboard: http://ec.europa.eu/newsroom/document.cfm?doc_id=43918.

There is not a clear working definition of “Justice system”. While such a definition can be partially inferred from the indicators used, the lack of an explicit definition generates uncertainty as to e.g. the same scope of the assessment.

The Scoreboard only focuses on quality, independence and efficiency of the justice systems, which are just a portion (albeit a relevant one) of the access to justice dimension. The Scoreboard is not specific to environmental matters; thus, no information is provided for instance on the existence and numbers of specialised environmental courts, prosecutors etc. or, where no specialization exists, on how many judges, prosecutors etc. are practically involved in environmental matters.

Under some indicators, methodologies to collect data varies among the different member States; moreover, the data availability varies for the different Member States.

Surveys have been used to obtain data concerning some indicators, but in some cases (indicators on use of ICT in justice systems) no detailed information is provided on the participants to the survey (e.g. geographical distribution within a given State, average age etc.).

Difficulties in the definition of the exact scope of the notion of “environment” (as compared e.g. to “competition”) and, correlatively, environmental policy and governance may hinder the ability of the Member States to provide reliable and comparable data if the methodology under which the data are collected is not specifically tailored and focused on environmental policies and governance and only considers effectiveness of environmental justice just as a component or exemplificative area of a justice system.

Relevance to specific themes

A number of indicators and related data are relevant to the Concept Dimension insofar as they assess overall trends in reform dynamics and e-government readiness in each MS. These include justice system reform measures and availability of published decisions.

Most of the indicators and criteria are relevant to the Access to justice Dimension, although information related to Environmental Governance has to be extrapolated from the general rule of law indicators and criteria. The addition of perceived independence of judges is an important addition to the Scoreboard in 2017 that is highly relevant.

Considering that there is a positive trend in response rates to the Scoreboard, and that the scope of the Scoreboard is gradually expanding over time, an opportunity presents itself to calibrate the Scoreboard towards greater support and relevance to Environmental Governance assessment in the future.

Conclusions

The 2017 edition of the Scoreboard further develops the overview as compared to the previous editions and examines new aspects of the functioning of justice systems. It is relevant to a few of the dimensions and themes that are crucial for the assessment of environmental governance performance.

In some cases, the indicators and assessment criteria used in the Scoreboard are potentially useful to assess certain (limited) aspects of environmental governance performance and get relevant

data (mainly under the theme of judicial capacity). However, they are not specifically tailored to assess the peculiarities of the environmental matters with regard to those aspects (e.g. general issues of information versus specific commitments under the Aarhus Convention; number of judges per inhabitants versus specialization in environmental matters) and the related data result unspecific; when overall information on participants in a survey is not provided, the reliability of the results of the survey and their real significance are not clear. Data sources do not include environmental networks.

Neither an overall assessment (across the environmental policy domain) nor specific assessments (per policy area: air, nature, water, chemicals, industrial, and waste as well as horizontal legislation) would be possible on the grounds of the methodological framework of the Scoreboard.

However, a rather significant number of the Scoreboard indicators, assessment criteria and/or related data can be taken into consideration in developing a targeted assessment framework for environmental governance and/or carrying out national assessment of environmental governance performance.

3. EU SDG indicator set by Eurostat

Introduction

This document presents an overview of the implementation of the Sustainable Development Goals (SDG) in the European Union -EU answer to the UN agenda. The document is structured along the 17 SDGs and includes 100 different indicators. Out of these 100 indicators, 41 are multi-purpose - used to monitor more than one SDG. The relevance of the indicators differs across the components of environmental governance, but overall this documents presents a comprehensive overview of particular goals and related indicators: the main strength is the data on the frequency of data collection, as well as the data provider. As such, this document is of extraordinary importance for understanding the implications of UN SDG agenda on environmental governance. The findings show that EU has made a significant or moderate progress over the last five years towards the achievement of several SDGs relevant for environmental governance.

Overall relationship to environmental governance

The implementation of SDGs is of great relevance for environmental protection. Hence, its impact on environmental governance and its dimensions is equally significant. Virtually all of the goals can, in a more or a less directed way, be related to one or more dimensions of environmental governance. Nonetheless, the EU SDGs are most relevant for the Efficiency dimension (in particular 2.6.3 - inter and cross sectoral coordination, integrated assessment and planning tools, flexibility and adaptability), but are also important for Transparency, Participation, and Access to justice dimensions.

Good practices

Most of the documents related to the EU answer to the UN agenda are both visually and textually presenting the level of progress across the years in a comprehensive and detailed way. The most important methodological points are pointed out in the introductory section, as well as the basis on which the progress is estimated (significant or moderate movement towards or away the SD objectives). Each of the SDGs is presented separately, but the major findings are pointed out in the introduction.

Limitations

The availability of data proves to be a major hardship for estimating current level of progress, as well as future trends in the particular field. The incompleteness of the data at disposal makes the comparisons or track of the general findings and conclusions across temporal component virtually impossible.

Moreover, it is questionable on what basis the relevance of some goals for the EU are estimated, because it is not clearly stated how are EU SDGs delineated from global, UN-generated Sustainable Development Goals.

Relevance to specific themes

As stated before, even though most of the SDGs are applicable to environmental governance, and are significantly intertwined, it is somewhat harder to identify the concrete connection of SDGs and themes within the environmental governance framework. For instance, SDG 1: No Poverty, can be indirectly related to the Transparency dimension (3: access to information), and Access to justice (9: Access to Justice). Similarly, the SDG 10: Reduce Inequality, can be related to the two abovementioned dimensions. The SDG 5: Gender Equality, and the SDG 10 (Reduced Inequalities) can be related to the Participation dimension: Equitability/Inclusiveness. The SDG 6: Ensure availability and sustainable management of water and sanitation for all consists of important indicators for water sanitation, but cannot be directly related to any of the themes or indicators within the environmental governance framework. The SDG 7: Affordable and Clean Energy consists of indicators such as Energy Consumption, Energy productivity, and Greenhouse gas emissions intensity of energy production that are ultimately tied to the understanding of environmental governance are not tied to any of the particular indicators within the environmental governance framework. The growth of R&D personnel (employees in the four institutional sectors: business enterprise, government, higher education and private non-profit) as one of the indicators within the SDG 9: Innovation, Industry, and Infrastructure, points to the Administrative capacity (18) within the Effectiveness/Efficiency theme. The SDG 11: Sustainable cities and communities can be related to all of the three dimensions within the Transparency theme, as well as Access to justice (9: Access to justice, and 10: Effective Remedies), and Compliance assurance and Compliance assurance and accountability, in particular with the relevant findings on the exposure to pollution. Consequently, most of the indicators included in the SDG 12: Responsible Consumption and Production are relevant to the pillars of environmental governance: 2.6.3 inter and cross sectoral coordination. Combatting climate change, the focus of SDG 13, is of great relevance for all of the pillars of the proposed environmental governance

framework. The SDG 14, and 15 dedicated to sustainable water (14) and terrestrial ecosystems (15) management, is related to the Effectiveness pillar of environmental governance, namely administrative capacity, cross-sectoral coordination, integrated assessment, and flexibility/adaptability. SDG 16: Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels is essential for the Access to justice pillar, and Access to Justice, Effective Remedies, Judicial Capacity, but also Public Confidence dimension within the Participation pillar – even though this SDG is not particularly related to environmental matters. Finally, SDG 17: Global Partnerships for Sustainable Development is important for governance overall, but the most relevant pillars within the environmental governance framework are not explicitly addressed.

Conclusions

Overall, the EU approach towards the implementation of Sustainable Development Goals has a significant impact on environmental governance and governance overall. In many cases, individual SDGs and indicators used are potentially useful do address one or several pillars within the environmental governance framework. A rather significant number of the indicators can be taken into consideration in assessing the level of progress on the EU level. On the other hand, some of these goals and indicators are not tailored to assess particular dimensions of environmental governance, nor the peculiarities of environmental matters within the broader governance issues. Hence, some of the assessments, in particular those related to the efficiency, access to justice, and participation pillars can be related to the EU SDGs. Therefore, this document is of extraordinary significance for understanding the EU agenda with regard to sustainable development and environmental issues, and can be of great use in analysing both regional and national performance in the field of environmental governance.

4. The World Justice Project Rule of Law Index 2017-2018

Introduction

The World Justice Project (WJP) Rule of Law Index⁴ is a leading source for original data on the rule of law. The Index relies on more than 110,000 household surveys and 3,000 expert surveys in 113 countries to measure how the rule of law is experienced and perceived in practical, everyday situations by the general public.

Performance is measured using 44 indicators across eight primary rule of law factors, each of which is scored and ranked globally and against regional and income peers: Constraints on Government Powers, Absence of Corruption, Open Government, Fundamental Rights, Order and Security, Regulatory Enforcement, Civil Justice, and Criminal Justice.

⁴ https://worldjusticeproject.org/sites/default/files/documents/WJP_ROLI_2017-18_Online-Edition_0.pdf.

The Index is a diagnostic tool aiming to help identify countries' strengths and weaknesses and encourage policy choices that strengthen the rule of law within and across countries.

Strengths

The Index is a comprehensive dataset; it relies principally on primary data, measuring countries' adherence to the rule of law from the perspective of ordinary people and their experiences.

Methodology is clearly explained at the beginning of the report as well as in an *ad hoc* methodological section. In particular, the scores and rankings of the eight factors and 44 sub-factors of the Index draw from two sources of data collected in 113 countries: 1. A General Population Poll (GPP) conducted by leading local polling companies, using a representative sample of 1,000 respondents in the three largest cities of each country; 2. Qualified Respondents' Questionnaires (QRQs) consisting of closed-ended questions completed by in-country practitioners and academics with expertise in civil and commercial law, criminal justice, labour law, and public health.

In addition to the written report, an interactive online platform for country-specific WJP Rule of Law Index data is available⁵. The interactive data site allows to browse each of the 113 country profiles, and explore country and factor scores. The site features the Index's entire dataset, as well as global, regional, and income group rankings.

The Index provides for and relies on a working definition of rule of law; this facilitates understanding the scope of the report. This working definition of the rule of law is based on four universal principles, derived from internationally accepted standards, thus consisting in a system where the following four universal principles are upheld: Accountability, Just Laws, Open Government and Accessible and Impartial Dispute Resolution. It is worth noting that explicit relevance is given to public health and the environment, in that adherence to the rule of law is deemed essential for holding governments, businesses, civil society organizations, and communities accountable for protecting public health and the environment. Furthermore, environmental issues are taken into account within the breakdown of the factors: this is the case for factors 6 – Regulatory Enforcement – which *inter alia* measures whether government regulations, such as labour, *environmental*, public health, commercial, and consumer protection regulations, are effectively enforced.

With the exception of Luxembourg, Ireland, Cyprus, Latvia, Lithuania, Malta, Slovakia, the remaining EU Member States are covered by the Index, which represents a useful source of information for the related Country Reports as far as the multifaceted dimension of the access to justice is concerned.

Limitations

Although environmental governance related issues are taken into consideration in developing the Index, those environment-related profiles are not self-evident from the aggregation of the results and the ranking of the countries. Thus, useful information can be found in the Index with regard

⁵ data.worldjusticeproject.org.

to overall rule of law features of a given country and its regional ranking, but no specific information can be found as far as environmental performance is specifically concerned.

Conclusions

While other indices cover particular aspects of the rule of law, such as absence of corruption or human rights, the WJP Rule of Law Index is a global instrument that looks at the rule of law comprehensively.

The theoretical framework linking the outcome indicators draws upon two main principles pertaining to the relationship between the state and the governed. The first principle measures whether the law imposes limits on the exercise of power by the state and its agents, as well as individuals and private entities (factors 1, 2, 3, and 4 of the Index); the second principle measures whether the state limits the actions of members of society and fulfils its basic duties towards its population so that the public interest is served, people are protected from violence, and all members of society have access to dispute settlement and grievance mechanisms (factors 5, 6, 7 and 8 of the Index). The resulting set of indicators tries to find a balance between a so-called “minimalist” conception of the rule of law that focuses on formal, procedural rules, and a “thick” conception that includes substantive characteristics, such as self-government and various fundamental rights and freedoms. Striking this balance enables the Index to apply to different types of social and political systems.

Important factors are considered by the Index (e.g. lack of corruption) which can be relevant for the assessment of environmental governance performance, and environmental related performance are taken into consideration in building indicators (e.g. regulatory enforcement); however, the results are aggregated in a way that does not provide specific information as far as environmental governance is concerned.

5. Flash Eurobarometer 2017 and Standard Eurobarometer 2017

Introduction

Standard Eurobarometer 2017 presents the initial results of the spring 2017 standard survey (the results are published twice per year). The scope of the survey is the 28 member states of the EU, as well as Montenegro, Serbia, FYRO Macedonia, Albania, and Turkey, as well as the Turkish Cypriot Community in the part not controlled by the government of the Republic of Cyprus. The first results are published on broad topics such as the European political situation, the economy and European citizenship.

On the other hand, Flash Eurobarometer 2017 is a part of studies examining European citizens’ awareness of the EU regional policy as one of the main instruments of investment. The survey was conducted between 27th and 28th March 2017 in 28 member states of the EU: participants were interviewed via telephone. The report contains some of the important insights related to multilevel governance, transparency, awareness of strategies that promote cooperation relevant to environmental issues, paired with socio-demographic analysis of the responses. The important

findings and key trends related to regional policy and sustainable development elucidate the importance of tracking the citizens' attitudes and the level of support for EU policies.

Overall relationship to environmental governance

The preliminary results of Standard Eurobarometer 2017 point to a potential relevance for environmental topics, and governance-related issues. On the scale of concerns, climate change is taking 8th place (8%, unchanged to the 2016 Barometer), environment is taking 10th place (6%, unchanged), and energy supply 13th place (3%, unchanged). For EG (broadly), the following findings can be seen as relevant: trust in institutions (EU and national parliaments), as well as the attitudes related to citizenship and public participation in decision-making. For the Flash Eurobarometer 2017, results related to the perception of investments in renewable and clean energy, energy networks, and cooperation during natural disasters can be relevant for environmental governance. Given the nature and the scope of the survey, the findings can be used for estimating the Transparency, Participation, and partly the Access to justice pillars of the Environmental governance.

Good practices

Barometers provide a comprehensive overview of citizens' attitudes towards EU regional policy. The main findings are elaborated in a clear and intelligible manner. The set framework of the survey enables tracking progress across years. The visuals allow comparison both on the national, and the EU level. The key trends are elaborated in a separate document, and contain graphs which identify main trends and answers to the questions over the years.

Limitations

While surveys are an apt way to gauge public opinion on a wide range of issues, such a research poses several pitfalls related to the ways in which the questions and answers are generated. Hence, even though these two documents are of great use for policy analysts, the scope of this survey poses a significant challenge to an in-depth and profound analysis of topics related to environmental governance. Some of the questions in the survey (i.e. Have you heard of the Cohesion fund), although providing useful insights, are not sufficient for understanding the citizens' participation in governance processes. Another issue is estimating the meaning of terms: 'benefit ('in your daily life') from a particular project' is a topic that allows a wide range of interpretations from respondents.

Relevance to specific themes

Data obtained from Eurobarometer can be relevant for the pillars and dimensions within the concept of Environmental Governance, in particular the Public confidence and Public Participation dimension within the Participation pillar. Some of the findings can be associated with the Transparency pillar (the knowledge of EU citizens about relevant EU projects), but the information relevant for environmental component has to be extrapolated from the general findings.

Answers related to priorities in investments can have broader implication for the environmental component in governance: investment in environment, as well as renewable and clean energy are

presented as topics where public support for environmental projects can be estimated based on the results of the survey.

Conclusions

The Eurobarometer surveys present important insights related to the attitudes of EU citizens towards strategic priorities of the Union. Therefore, the relevance of the findings for environmental governance can be identified in the assessment of the questions that can be connected to overall governance or the attitudes towards investment in environment and clean energy. However, based on the findings of the survey, the overall assessment across environmental policy domains would not be possible. On the other hand, the attitudes of EU citizens are of great importance for understanding the future pathways in the field, and estimating the level of public participation based on their knowledge about particular projects. Therefore, these findings deserve to be taken into consideration in developing a targeted assessment framework for environmental governance and/or carrying out national assessment of environmental governance performance.

6. Reporting frameworks under the Aarhus Convention

Introduction

The Aarhus Convention, with its full name, is the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters. Its current reporting framework was introduced with Decision IV/4 on reporting requirements at the fourth Session of the Meeting of the Parties in 2011.⁶ In addition, the Guidance on Reporting Requirements issued in 2007⁷ is still relevant. This document contains procedural guidance as well as a list of issues for possible consideration in preparing national reports, consisting of a detailed list of questions structured along the articles and paragraphs of the convention. Reports from Parties are to be submitted for each Meeting of the Parties (MOP), while regular Meetings of the Parties have taken place in a three-year cycle (most recently in 2017).

In addition, documents relating to the Compliance Committee under the Aarhus Convention may be relevant. The Compliance Committee's function is to review compliance with the provisions of the Convention. Relevant material regarding compliance of individual Parties can be found in the decisions of the MOP on compliance, reports by the Compliance Committee⁸, requests from the MOP⁹, submissions from Parties concerning other Parties' or their own compliance¹⁰, and

⁶http://www.unece.org/fileadmin/DAM/env/pp/mop4/Documents/ece_mp_pp_2011_2_add.1_eng.pdf; online version available at <http://apps.unece.org/ehlm/pp/nir/qwery.asp?LngIDg=EN>, and Word version, along with further guidance, at http://www.unece.org/env/pp/guidelines_nir_2017.html

⁷https://www.unece.org/fileadmin/DAM/env/documents/2007/pp/ece_mp_pp_wg_1_2007_L_4_e.pdf

⁸ See both at <https://www.unece.org/env/pp/ccdocuments.html>

⁹ <https://www.unece.org/environmental-policy/conventions/public-participation/aarhus-convention/tfwg/envppcc/requests-from-the-meeting-of-the-parties.html>

¹⁰ <https://www.unece.org/submissions.html>

communications from the public¹¹. Updated information on compliance by individual Parties following MOP decisions can also be found on the Committee's webpages.¹²

Furthermore, the EU set up its own reporting mechanism with regard to Directive 2003/4/EC, which implements the Aarhus Convention's provisions on public access to environmental information.¹³ While the preamble text to the Directive states that "This Directive should be evaluated every four years, after its entry into force, in the light of experience and after submission of the relevant reports by the Member States, and be subject to revision on that basis", Article 9 of the Directive only requires Member States to report once, by 2009, and no other than the Member States' first reports under the Directive are available to date.

Overall relationship to environmental governance

As the Aarhus Convention is a core element of the environmental governance system, its reporting provisions are of high relevance to environmental governance assessments. In particular, the following dimensions of environmental governance are at the core of the Aarhus Convention: Transparency, Participation and Access to justice.

Good practices

An innovative feature of Aarhus reporting is that reports may not only be submitted by governments, but also from non-governmental organisations in each country.¹⁴ This offers an opportunity to counterbalance the official views presented in the governmental report and provide a more differentiated picture of the state of convention implementation in the country, in line with the aims and spirit of the Aarhus Convention itself.

In addition to aspects relating to the individual provisions of the Convention, the reporting format also requires procedural and context information: the "Process by which the report has been prepared" (e.g. what authorities were involved in its preparation and how the public was consulted) as well as "Particular circumstances relevant for understanding the report" (e.g., whether there is a federal and/or decentralized decision-making structure). Information about the circumstances under which a country report has been prepared is certainly good practice and provides additional evidence regarding the environmental governance dimensions of transparency and participation.

Limitations

¹¹ <https://www.unece.org/env/pp/cc/com.html>

¹² <https://www.unece.org/env/pp/ccimplementation.html>

¹³ Guidance document see: <http://ec.europa.eu/environment/aarhus/guidance.htm>; member states' reports see: http://ec.europa.eu/environment/aarhus/reports_ms.htm

¹⁴ For 2017, see https://www.unece.org/env/pp/reports_organisations_2017.html, where eight so-called "alternative" or "shadow" reports from NGOs in seven countries are available. Some of these follow the official reporting format while others consist of comments or supplementary material.

Reporting under the Aarhus Convention certainly constitutes a major reference for environmental governance assessments but does not cover all dimensions and themes equally (see below "Relevance to specific themes").

Reporting under the EC Directive on Public Access to Environmental Information is more limited in scope, essentially relating to just one of the environmental governance dimensions, and reports under this directive so far were only submitted once (most of them dating from 2009). Therefore, they do not provide regularly updated information but the list of questions contained in the Guidance Document may still constitute a meaningful reference.

Relevance to specific themes

As stated above, the Aarhus Convention is a key reference to the three dimensions of Transparency, Participation and Access to justice. Within these dimensions, certain themes are extensively covered by the Aarhus Convention while others are more indirectly touched. Furthermore, the Aarhus Convention also has some relevance with regard to other dimensions of environmental governance.

The following themes are in the focus of the Aarhus Convention:

- Under the dimension of **Transparency**, Theme 2) Access to information
- Under the dimension of **Participation**, in particular Theme 1) Stakeholder engagement
- Under the dimension of **Access to justice**, in particular Theme 1) Access to justice, Theme 2) Effective remedies, and Theme 3) Practical information (opportunities for Access to Justice)

In the following it is examined more in-depth to what extent the Aarhus Convention and its reporting provisions relate to these themes as well as other themes and dimensions.

Dimension: Multi-level governance culture

The Participation dimension of the Aarhus Convention also relates to Multi-level governance culture, especially with regard to the role of civil society in environmental governance.

Dimension: Transparency

1) Evidence/reporting: Article 5 on "Collection and Dissemination of Environmental Information" contains relevant provisions with regard to this theme. *Inter alia*, it contains the requirement that "Public authorities possess and update environmental information which is relevant to their functions" and it requires Parties to "ensure that environmental information progressively becomes available in electronic databases" and to publish national reports on the state of the environment at regular intervals. Therefore, reporting under Article 5, including on obstacles encountered in its implementation, may provide valid information in this regard. The information contained in the reports themselves may, however, not be sufficiently specific, but it may provide a starting point and sources for a more in-depth assessment.

3) Reliability/quality of information: Article 5 (see above) has certain relevance to the quality of environmental information, in particular its Paragraph 1 (a) and (b). Here, the Guidance on Reporting Requirements asks about mechanisms to ensure or control the quality of

environmental data. However, no in-depth information with regard to this Theme is likely to be provided in Aarhus reports.

Dimension: Participation

2) Integration of environmental concerns in planning and permitting processes (EIA/SEA): The Scoping Paper on a Conceptual Framework states that: "The EIA Directive and the SEA Directive are key elements in the EU's (and Member States') **implementation of Aarhus** and Espoo **Convention requirements** on public participation, environmental information, and strategic environmental assessment."

However, the Aarhus Convention makes no specific prescriptions on HOW to integrate environmental concerns in decision-making, but focuses on requirements for public information and participation in decision-making processes in case that these concern or affect the environment. Therefore, reporting under the Aarhus Convention cannot be expected to provide very specific information with regard to this theme. However, the Guidance on Reporting Requirements contains some questions regarding the scope of decision-making processes to which the public participation provisions of the Convention are applied in a country. Regarding "Public Participation in Decisions on Specific Activities" (Article 6), the Guidance asks whether the Convention's procedures are exclusively applied to decision-making requiring an EIA or also to other types of decision-making. Similarly, under Article 7 "Public Participation Concerning Plans, Programmes and Policies Relating to the Environment", the Guidance contains the question of which types of strategic decisions are considered to be "relating to the environment".

3) Public confidence in institutions: Here, the "alternative" or "shadow" reports submitted by NGOs under the Aarhus Convention (see also under the "Good practices" section) may provide helpful information. However, such material is only available for a selection of countries.

4) Equitability and inclusiveness: In principle, the Convention's aim is grant environmental information rights, participation opportunities and access to justice to everybody, so it is also related to equitability and inclusiveness. Article 3, paragraph 9 provides for non-discrimination with regard to citizenship, nationality or domicile. However, the Convention does not contain any specific provisions with regard to specific groups such as ethnic minorities, women, or people with low income and/or low levels of education. The reporting requirements do not contain any such specification either. However, reporting under Article 3, paragraphs 2 (obliging governmental institutions to provide assistance and guidance to the public) and 3 (obligation to promote environmental education and awareness) might touch upon such aspects.

Dimension: Access to justice

4) Judicial capacities: The Aarhus Convention does not contain any specific requirements regarding judicial capacities. However, the ability of national courts to fulfil the requirements set by the Convention may be influenced by (a lack of) available capacities. Therefore, some information relating to this theme might be found in Parties' reports under the heading of "Obstacles encountered in the implementation of article 9", as well as in reports submitted by NGOs or in the Compliance Committee's records.

Dimension: Compliance assurance and accountability

1) Inspection, enforcement, public mobilization: The Aarhus Convention seems to be less relevant with regard to this Theme. Compliance issues can be expected to be largely confined to compliance with the provisions of the Convention itself, rather than any other environmental legislation. In addition to national reports, the documents prepared by or submitted to the Compliance Committee will be of particular relevance to this subject.

2) Complaint handling: Although the term "complaint" as such does not appear in the Aarhus Convention, its Article 9 on Access to Justice is essential with regard to complaints regarding the rights to environmental information and participation granted by the Convention, as well as actions by public or private entities that negatively affect the environment. It also refers to review procedures other than by a court of law. Extensive information on complaint-handling can be expected to be found not only in national reports, but also in Compliance Committee material and NGO reports under the Convention. As a more specific aspect, the Guidance on Reporting Requirements contains the question whether members of the public can "initiate administrative cases through petitions, complaints or motions".

3) Corruption issues: While the issue of corruption is not within the focus of the Aarhus Convention, some relevant information may be found in related documents, in particular alternative NGO reports, especially with regard to justice matters and the question whether the outcome of planning and permitting procedures is adequately shaped by public participation.

4) Environmental liability: While the Aarhus Convention does not contain any specific rules on environmental liability, its Article on Access to Justice has some relevance to this Theme. National reports and other documents under the Convention may provide some information on how environmental liability rules, where they exist, are enforced before courts.

Dimension: Effectiveness and efficiency

1) Enabling financing and absorption of funds: This Theme is only a side-line issue to the Aarhus Convention, if at all relevant. However, the provision of environmental information to the public may also entail information on the availability of environmental funding.

2) Administrative capacity (environmental inspectorates, police, customs, prosecution services and audit bodies): Similarly to the "Judicial capacities" Theme, this issue has more of an indirect connection with the provisions of the Aarhus Convention. Both the timely provision of environmental information and the facilitation of adequate public participation procedures require certain administrative resources. Information on problems with a lack of capacities may be contained in particular in alternative NGO reports, as well as documents related to the Compliance Committee.

3) Inter/cross-sectoral coordination: The Aarhus Convention does not contain any specific requirements for inter- and cross-sectoral coordination, but such coordination affects the flow of environmental information as well as the facilitation of effective planning and public participation procedures. More specifically, the Guidance on Reporting Requirements contains the question whether "various levels and kinds of environmental and sectoral authorities operate parallel data-processing systems" and, if so, whether "there are any measures to make the information flow more effective and harmonize the data".

4) Integrated assessment and planning tools: This Theme is only indirectly touched upon by the Aarhus Convention. In particular with regard to public participation, reporting under the Aarhus Convention may provide some information about the assessment and planning tools that are actually used.

5) Flexibility/adaptability: Insofar as a dialogue between administrative bodies and civil society contributes to the flexibility and adaptability of environmental governance, the implementation of the Aarhus Convention – especially in the field of public participation – also contributes to these goals. However, it is unlikely that the reports under the Convention deliver straightforward information with regard to this Theme.

Conclusions

The reporting framework under the Aarhus Convention is well suited to support environmental governance assessments, both in terms of checklists provided and in terms of actual information contained in the existing reports. The Aarhus Convention relates to three of the environmental governance dimensions identified: Transparency, Participation and Access to justice, also called the "Aarhus dimensions" or "pillars" of the Aarhus Convention. Documents under the Aarhus Convention therefore provide essential information with regard to these three dimensions, although not all themes under each dimension are equally covered, and also have some relevance to other dimensions. As national reports under the Aarhus Convention are being prepared every three years, they also provide more or less up-to-date information. In addition to national reports, NGO "shadow" reports may also be used for the countries where they exist. Documents prepared by or submitted to the Compliance Committee are also of interest.

To a lesser extent, the reporting framework under the EC Directive on Public Access to Environmental Information may also be a helpful reference. The directive implements the "environmental information" dimension of the Aarhus Convention but also contains provisions on access to justice relating to environmental information. However, reports from Member States so far were only submitted once, most of them dating from 2009.

7. Digital Single Market Scoreboard by DG CONNECT

Introduction

The digital scoreboard measures the annual performance of EU member states in a wide range of areas, from connectivity and digital skills to the digitisation of businesses and public services. All of the 28 member states are included, as well as Norway. The scoreboard includes data from the Digital Economy and Society Index and the European Digital Progress Report. The fundamental strength of the Digital Single Market Scoreboard is that it enables comparison of countries' digital performance in the areas of connectivity, human capital, internet use, integration of digital technologies and digital public services, using more than 30 key indicators.

Overall relationship to environmental governance

The scoreboard does not concern environmental governance or overall governance as such, but only a component of governance, related to the Multi-level governance culture, Participation, and Transparency as three of the pillars of environmental governance. The overall relevance of this comprehensive Digital Market Scoreboard for environmental governance can be seen through findings related to the growth of ICT jobs and specialists on the common market, availability of online services and attitudes of European citizens towards online privacy, but fails to encapsulate the exact effect on the environmental component. Thus, indicators, assessment criteria, and data used and provided in the Scoreboard are not specific to Environmental Governance.

Good practices

The findings show that digitisation has been growing worldwide, although EU countries in general need to step up to reach the level of US and other leading economies (there is a big gap between top digital players and lower performing countries in the Union), but also accentuates the problem with providing internet services to rural areas. On the other hand, Denmark, Finland, Sweden and the Netherlands are leaders of the digitisation process, and also global leaders (ahead of South Korea, Japan, and the US). Manufacturing, construction and transport are least digitized, which can have important implications for environmental governance.

The report is also presented in a video format, encapsulating the main findings, but also the areas which need further development (i.e. sufficient digital skills of European citizens, small and medium enterprises are lagging behind big enterprises in digitisation etc.)

Limitations

Even though the main and most relevant results are published in a video format, there is a lack of textual engagement with the main findings of the Digital Single Market Scoreboard. All the information relevant to the data and the key findings are hyperlinked and thus implicitly hidden behind the main page stacked with supplementary reports and press releases relevant to particular components of the scoreboard.

Relevance to specific themes

While most of the information presented in the scoreboard is irrelevant to environmental governance or any of its components, some of the findings and data presented in the Digital Single Market Scoreboard may serve as an indicator for performance in the Participation section of the Environmental Governance framework. For instance, concerns related to privacy (60% of internet users limit their information online) can be potentially associated with the willingness of users to engage in public participation and policymaking processes. Moreover, the equitability and inclusiveness dimension within the Participation section can be related to the level of digital skills of Europeans (56% have at least basic digital skills), or the access to broadband.

Although the data in the Digital Single Market Scoreboard cannot be clearly related to the Multi-level Governance and Transparency dimension of environmental governance, some of the findings can point to the opportunities for intersection with environmental governance – such as the digitisation of businesses and government institutions. Nonetheless, it remains unclear how these findings can be particularly related to the environmental component.

Conclusions

The progress made in the field of digitisation points to the increasing relevance of ICT for governance. However, the existing discrepancies in the level of progress among the member states can have significant implications for the overall governance and environmental governance.

The Digital Single Market Scoreboard points to the developments in a field which can be potentially useful for the Participation dimension of environmental governance, as well as Multi-level Governance and Transparency dimension, but are not specifically tailored to address environmental matters of governance.

Neither an overall assessment (across the environmental policy domain) nor specific assessments (per policy area: air, nature, water, chemicals, industrial, and waste as well as horizontal legislation) would be possible on the grounds of the methodological framework of the Scoreboard.

However, a rather significant number of the Scoreboard indicators, assessment criteria and/or related data can be taken into consideration in developing a targeted assessment framework for environmental governance and/or carrying out national assessment of environmental governance performance.

8. UNITAR framework relating to Rio Principle 10

Introduction

Principle 10 of the Rio Declaration, adopted by Heads of State and Governments at the 1992 Rio Summit, promotes access to information, public participation, and access to justice in environmental matters.

The United Nations Institute for Training and Research, UNITAR, set up a global programme which provides methodological and technical support to countries to strengthen implementation of Principle 10 of the Rio Declaration through a country-driven process. Each country project prepares a National Profile and Action Plan, following a standard project methodology. The Guidance Document on "Preparing a National Profile to Assess National Capacities for Implementation of Principle 10 of the Rio Declaration"¹⁵ of 2008 provides a detailed catalogue of questions relating to the country's political system and general conditions as well as the implementation of the three environmental governance dimensions.

Overall relationship to environmental governance

Rio Principle 10 explicitly refers to an environmental context and therefore is fully relevant for environmental governance. It addresses the same dimensions of environmental governance as the Aarhus Convention, namely, access to information, public participation, and access to justice.

¹⁵ http://www.unitar.org/egp/sites/unitar.org.egp/files/p10_EN_guidance.doc_np.final_12.2008.pdf

In terms of the environmental governance dimensions identified in the project, this corresponds to Transparency, Participation, and Access to justice. In addition to sections explicitly related to these three dimensions, the UNITAR self-assessment framework also contains a more general catalogue of questions dedicated to the political system, covering aspects such as constitutional rights, levels of government, and the judiciary system. This part of the framework may provide useful guidance for the horizontal theme of multi-level governance culture.

Good practices

In a specifically dedicated section of the structure for national profiles, environmental governance issues are broken down to ten different sectoral areas of environmental policy, such as Land use, GMOs, Nuclear energy and Waste management. For each of these sectors, specific questions are asked regarding the three dimensions of access to information, public participation and access to justice. Similarly, the section on access to environmental information contains a breakdown to hazard/emission data and sources, environmental quality data (each further differentiated by environmental sectors) and data on nature protection and biodiversity. This provides a fine-tuned framework to identify relevant issues regarding individual environmental policy sectors. The section on public participation contains a list of international agreements and processes, such as the UN Framework Convention on Climate Change, the Convention on Biological Diversity or the preparation of a National Sustainable Development Strategy, and asks about the level of public participation in relevant national processes.

The framework also contains a section dedicated to "Non-governmental groups involved in environmental decision-making", where the definition of "non-governmental groups" includes not only NGOs in the classical sense but also media and individuals raising their voice in environmental matters. Beyond purely legal issues, this section also asks about the actual existence, structure and strength of these groups, how effectively they are involved in decision-making processes and how their standing may be improved. Such aspects may provide additional helpful information to the horizontal theme of multi-level governance culture.

In addition, the framework provides the option of preparing case study reports on specific environmental decision-making cases. While such case studies may require a too great effort and go beyond the scope of a standardised environmental governance assessment, they may nevertheless provide meaningful insights on real-life processes and constraints.

Limitations

The UNITAR framework was established with the main purpose of assisting developing countries in strengthening implementation of Rio Principle 10. Countries that have participated in this national self-assessment process are limited to Central America, Africa and Central Asia. Therefore, the content of existing national profile documents provides no information about environmental governance in EU countries. Notwithstanding, a large part of the extensive catalogue of questions is suited for universal use. Some of the questions, however, may be too basic, e.g. in the sense that they refer to items where EU law already sets minimum requirements that are universally applied in all Member States.

Relevance to specific themes

Under the *Transparency* dimension, the framework focuses on the theme of **Access to information**. It does not go into detail on **Evidence and Reporting**; however, it provides a checklist for different types of environmental information (see also the "Good practices" section above), what institution holds this information and whether it is available to the public. Furthermore, the framework also asks about information which is not considered "environmental" in a narrow sense, but related to activities that may have an impact on the environment, such as national or regional transport plans. In addition, it asks about "Environmental Data Held by Industry and Private Sector Parties". The framework contains no specific questions relating to the **Reliability/quality of information**.

Under the *Participation* dimension, the UNITAR framework focuses on **Stakeholder engagement**. Here, it goes into detail about individual types of decision-making processes as well as environmental policy areas (see also the "Good practices" section above). The other themes under this dimension are not explicitly addressed by the framework

Under the *Access to justice* dimension, the framework focuses on the theme of **Access to Justice** but this also affects the **Effective Remedies** theme. The questions about Access to Justice are differentiated by enforcement of administrative law (with further differentiation within this subject), criminal law, private/civil law and constitutional law. However, while specific remedies such as injunctive relief or damages are briefly mentioned in the text, this is not referred to in greater detail. Also, the catalogue of questions focuses on legal provisions and not on how these matters are actually dealt with in practice. The **Liability** theme under the dimension of *Compliance assurance and accountability* is touched in particular by the question on private/civil law enforcement, but probably not in sufficient detail to provide relevant additional information under this theme.

Regarding **Practical information (opportunities for Access to Justice)**, the section on environmental information includes the aspect of "Information about judicial procedures", but does not elaborate on it. The section on access to justice focuses on the legal framework, not on the question of how it is actually implemented.

Regarding **Complaint handling**, the section on "Public participation in environmental decision-making" includes the aspect of "Non-judicial Review/Appeal of Executive and Administrative Environmental Decisions" and provides for a breakdown of non-judicial review opportunities by types of decision-making processes, such as the development of legislation, plans and programmes, or standards. The themes of "**Inspection/ Enforcement/ Public Mobilisation**" and "**Corruption**" under the "*Compliance assurance and accountability*" dimension are not addressed in the framework.

Relevant to "**Judicial capacity**" under the *Access to justice* dimension and "**Administrative capacity**" under the *Effectiveness/Efficiency* dimension, the framework includes a section for the "Evaluation of Existing Capacities and Capacity Constraints to Implement Principle 10 of the Rio Declaration". However, the questions under this item remain very general and therefore do not provide meaningful guidance for a more specific assessment of judicial and administrative capacities.

Among the other themes of the *Effectiveness/Efficiency* dimension, the "**Enabling financing**" is only rather marginally touched. The framework addresses, in particular, adequate funding for non-governmental organisations and asks, more generally, whether financial resources are "managed effectively and allocated appropriately to enable effective operation", but this is more related to the administrative and governance system itself than to environmental funds in general. Regarding **Inter-/cross-sectoral coordination**, the framework does not go into detail on specific procedures but, at least regarding the national self-assessment process itself, highlights the need to involve all relevant ministries, not just those whose relation with environmental matters is most obvious. The framework does not elaborate on **Integrated assessment and planning tools**. Regarding **Flexibility/adaptability** of the environmental governance system, the framework's catalogue of questions does not explicitly address feedback and self-control mechanisms but the whole national self-assessment process itself can be seen as mechanism to identify shortcomings and trigger improvements in environmental governance. In particular, the final chapters on "Evaluation of Existing Capacities and Capacity Constraints to Implement Principle 10 of the Rio Declaration" and "Opportunities for Taking Action and Targeted Capacity Building" are designed to guide such an overall improvement process, with the term "capacity" being understood in a wide sense related to the overall functioning of the system with regard to the objectives of Principle 10. This is further supported by Annex 1, which contains an additional list of questions to assess capacity constraints at the systemic, institutional and individual levels.

Conclusions

The UNITAR framework to assess national capacities for the implementation of Principle 10 of the Rio Declaration provides a useful catalogue of questions relevant to several dimensions of environmental governance. It focuses on the themes of Access to information, Stakeholder engagement and Access to justice and offers a relatively fine-tuned differentiation into environmental policy areas and sectors. As the framework was mainly conceived to assist developing countries, further specifications may be useful to adapt individual questions to the EU context. For the same reason, the national profiles available provide no environmental governance data from any EU Member State.

9. Bertelsmann Sustainability Governance Indicators

Introduction

The Sustainable Governance Indicators (SGI) is a platform envisaged as a cross-national survey of governance that identifies reform needs in 41 EU and OECD countries in the sphere of policy performance, governance, and democracy. SGI focuses on a variety of stakeholders throughout EU and OECD countries and institutions in order to identify opportunities for innovation across the three pillars.

Overall relationship to environmental governance

The framework of sustainable governance is closely connected to the proposed framework environmental governance, which becomes apparent even by looking at the mission statement of SGI: the struggle for implementing sustainable policies is shared by a variety of actors: governments and international organizations being the most relevant. Therefore, most of the SGIs are concerning one or more of the dimensions of environmental governance. Moreover, all of the three pillars within the SGI framework: policy performance, governance, and democracy, are connected to the dimensions and themes of environmental governance.

Good practices

The areas identified as relevant across the proposed pillar-system are covering the most important aspects. The visual presentation is outstanding: the identification of central question paired with a graph which presents the scores for the related themes enables an identification of the strengths and weaknesses for each of the countries. Moreover, the table view provides an outlook on how the specific country is ranking compared to the other countries included in the survey. Additionally, there is an opportunity to compare the score with the survey results from 2014, and to compare the progress made with the scores of other countries. Furthermore, it is possible to include OECD/EU filter, which allows for a more nuanced comparison. The graphs and tables can be downloaded as a .png file, and the platform allows an opportunity to compare the scores with any country/OECD/EU on the same page. The methodology is built on a combination of qualitative assessments by country experts and quantitative data drawn from official sources: neither of them being epistemologically superior. The survey process is thoroughly described and visually presented. The survey structure and the questionnaire are transparent. The subjective bias is aptly addressed and confronted through a six-stage peer review, leading up to the weighted score. There is also a FAQ section which addresses particular queries related to the SGI, innovative principles, and methodology,

Limitations

While this framework presents a number of opportunities for an analysis and reflects on potential weaknesses, there is still not enough information on the choice of indicators and themes, which are to an extent overlapping. Hence, their assessment on the basis of proposed environmental governance framework becomes somewhat problematic.

Relevance to specific themes

Related data under the Environmental policy section of the Policy pillar are relevant to virtually all of the themes within the proposed environmental governance framework. The Democracy pillar of SGI is relevant for all of the themes within the Access to justice, Participation Dimension, and Transparency, while the Governance pillar is related to the Effectiveness/Efficiency and Compliance assurance and accountability dimension: namely, Executive Capacity dimension under the Governance pillar offers important insights into Cross-sectorial Coordination (19), Administrative Capacity (18), Integrated Assessment (20), Flexibility-Adaptability (21), while the findings under the Compliance assurance and accountability dimension can be related to the Participatory dimension – Public participation (5), Public confidence (6), and Equitability/Inclusiveness (7). Integration of environmental concerns in planning and permitting

processes (EIA/SEA) (6) is touched upon in the Environmental policy section of the Policy pillar. The only dimension within the proposed framework of environmental governance that has not been addressed is Multi-level governance culture: however, this topic is implicitly dealt with through other pillars and sections. Overall, the SGI is of great relevance for the Environmental Governance Assessment.

Conclusions

The 2017 edition of the SGI enables an excellent opportunity to keep track of sustainable governance, and can be thus related to most of the dimensions of the environmental governance framework. The only potential drawback of the SGI is related to the time series: the fact that the surveys are conducted once every three years. However, this time gap allows for a more nuanced understanding of the developments and progress across fields, as well as comparisons of developments over time. Therefore, the Sustainable Governance Indicators are of great use to access the developments in environmental matters and environmental governance.

10. OECD Environmental Performance Reviews

Introduction

An Environmental Performance Review is a process of comprehensive research and analytical effort, intended to help governments improve policies that impact the environment. It usually takes a year and a half between the first meetings and the formal launch of the report. The OECD Environmental Performance Reviews (EPR), first launched in 1992, are currently in their third cycle – each country is assessed once in every 8-10 years. Since the reviews focus on the assessment and recommendations related to policy, key environmental trends, and environmental governance and management, as well as the measures taken to mainstream environment into the countries' economic policies, these documents have a lot to offer to the proposed framework of environmental governance.

As for the methodology of this assessment, it consists of three major phases: review preparation and information collection, review mission, policy meeting, draft report, peer review and launch. At the beginning, each country has an opportunity to choose two topics for in-depth analysis (i.e. climate change, sustainable development of waste etc.). After that, questionnaires are distributed in-cooperation with the relevant ministries and agencies. Following the compilation of data and documentation, the review mission, consisting of analysts and specialists (including experts from the two reviewing countries) meets with the representatives of relevant ministries, trade unions, NGOs, independent experts, and local governments. The findings are assembled in a draft report which is scrutinized at meetings of the OECD Working Party on Environmental Performance (WPEP). In 2018: EPRs on Czech Republic and Hungary will be published, while Australia, Indonesia, and Turkey will be published in 2019.

Overall relationship to environmental governance

As it was pointed out in the introduction, the EPRs present important findings for all of the dimensions of environmental governance in the assessed OECD countries. The ‘Access to justice’, ‘Transparency’, ‘Participation’, ‘Compliance assurance and accountability’, and ‘Effectiveness/Efficiency’ dimension are covered through most of the sections, with the clear identification of loopholes and recommendations, whereas the Context section is usually elaborated in the introductory section of the EPR.

Good practices

The structure of the report has changed over time, but it still allows a relatively comparison of progress. The major changes can be located in the context section of the report, which is integrated in the other sections of the following reviews. The conclusions and recommendations section is presented in the first part of the review, which allows a concise overview of main issues and developments in relation to environmental management (strengthening the implementation of environmental policies, air, water, nature and biodiversity), sustainable development (integration of environmental concerns and economic decisions, integration of environmental and social concerns, agriculture), as well as international cooperation. The visuals allow for an easier contextualization and identification of main benefits and drawbacks regarding the land use. The references identify the selected data upon which the report is based. Some of the reports published in 2017 contain reader’s guide and executive summary instead of the conclusions section, while the structure is organized as a narrative, with clear background and key environmental trends. For the reviews to be published in 2018, there is also a ‘highlights’ brochure which underlines the process of data collection and assessment. The relevant actors are clearly identified for each of the sections.

Limitations

Comparison with the findings from previous reviews needs to be emphasized. Even though the major trends are identified and, in most of the cases, visually presented, there is still a need to provide a clearer linkage between the reports. There is not much to be found on the multi-level governance culture, nor the transparency dimension in relation to the public participation: however, with reviews published in recent years, this has changed. A more standardized framework which would not have significant changes over the years would be greatly beneficial for tracking the performance of countries assessed under the EPR.

Relevance to specific themes

The EPRs offer a detailed insight into the dynamics of environmental governance in particular countries, and are thus of great relevance for the environmental governance framework. The Participation dimension is covered through ‘Society and Environment’ section (integrated in some 2017 reports), but can be also seen in the background section. Depending on the edition (and the year), there can be more or less information found on particular themes within the dimensions (e.g. access to justice: judicial capacities).

The information about the multi-level governance culture is provided either in the background info, or the outline of environmental policy (horizontal co-ordination and vertical organization). All of the newer reviews reflect on the e-governance level. The transparency dimension is usually

located under the 'promoting environmental democracy' sections, while the 'reliability/quality of information' is usually absent from performance reviews. This is generally abridged by outlining (where applicable) the vertical organization and the process of policymaking and implementation. All of the themes within the Participation dimension are integrated in the reviews, usually under the 'Promoting environmental democracy' sub-section.

The themes related to the Access to justice are generally addressed in a separate section: access to justice (9), practical information (11), and judicial capacity (12) are addressed in most of the reports and editions, whereas effective remedies are addressed in cases where they are/were considered to be an issue. As for the Compliance/Assurance dimension, the legal framework for liability and inspection is outlined in the vast majority of the reports, whereas the Preventing corruption (16) theme is implicitly addressed through an outline of the broader legal framework. Finally, the majority of the themes within the Effectiveness/Efficiency dimension are incorporated within the Policy-making environment section.

Conclusions

Overall, the Environmental Performance Reviews, in particular the newest editions, examine new aspects of the functioning of environmental policies, and are relevant to most of the dimensions and themes that are crucial for the assessment of environmental governance performance.

However, even though findings are potentially useful to assess certain aspects of environmental governance performance in the given country, it becomes difficult to connect them with some of the themes within the proposed environmental governance framework, which may lead to difficulties in drawing conclusions for the related data. Yet, the OECD environmental performance reviews remain arguably the most comprehensive assessment of countries' environmental governance performance to date.

11. Environmental Liability Directive Study Reports

Introduction

The European Commission has commissioned reports on the Environmental Liability Directive (2004/35/CE; ELD) since 2008. The reports have covered financial security for ELD liabilities, the implementation and effectiveness of the ELD and challenges to them, the feasibility of creating a fund for environmental liabilities, and the transposition of the ELD into the domestic law of Member States.

In 2010, the Commission issued its first report on the implementation of the ELD.¹⁶ A second report on implementation followed in 2016,¹⁷ accompanied by a REFIT evaluation of the ELD.¹⁸

The 2016 report concluded that implementation of the ELD had improved but that it was not possible to carry out a full REFIT evaluation due to various factors including the lack of information on ELD incidents and comparable incidents treated under the domestic law of Member States, and a lack of awareness of the ELD by stakeholders. Key governance issues identified by the Commission were differences in the ‘significance threshold’ for environmental damage between Member States (and thus for application of the ELD), and the implementation and enforcement of domestic environmental liability law rather than the ELD by competent authorities in the majority of Member States. Other governance factors included: insufficient resources and expertise to implement and enforce the ELD; under-use of complementary and compensatory remediation; varying use of registers of ELD incidents; and varied application of the duty to take action in the absence, or inaction, by liable operators.

Based on its conclusions in the 2016 report, the Commission developed the Multi-Annual Work Programme (MAWP) 2017 – 2020 to address gaps and implementation deficiencies in a more structured and systematic way. The MAWP, which was finalised on 28 February 2017, has three pillars: improving the evidence base for evaluation and decision-making; supporting implementation of the ELD; and ensuring sufficient availability of financial security for ELD liabilities.

Due to the earlier studies providing information to the European Commission to prepare its 2010 and 2016 reports, and the Commission’s subsequent design and adoption of the MAWP to improve implementation of the ELD, this section focuses on the MAWP and the studies and reports commissioned by the Commission to implement the MAWP’s initial phases. It does not include a discussion of financial security because a review of financial security that focuses specifically on ELD liabilities is planned for a later phase of the MAWP.

¹⁶ Report from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions Under Article 14(2) of Directive 2004/35/CE on the environmental liability with regard to the prevention and remedying of environmental damage (COM(2010) 581 final, 12 October 2010); <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52010DC0581>

¹⁷ Report from the Commission to the Council and the European Parliament under Article 18(2) of Directive 2004/35/EC on environmental liability with regard to the prevention and remedying of environmental damage (COM(2016) 204, final, 14 April 2016); <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM:2016:204:FIN>

¹⁸ Commission Staff Working Document REFIT Evaluation of the Environmental Liability Directive, Accompanying the document Report from the Commission to the European Parliament and to the Council pursuant to Article 18(2) of Directive 2004/35/EC on environmental liability with regard to the prevention and remedying of environmental damage (SWD(2016) 121 final, 14 April 2016); <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=SWD:2016:121:FIN>

Overall relationship to environmental governance

The main focus of the ELD is preventing and remedying damage to land/soil, water covered by the Water Framework Directive,¹⁹ and species and natural habitats protected by the Birds Directive²⁰ and the Habitats Directive.²¹ Its focus, therefore, is on operators whose activities may, or do, cause such environmental damage. Further, the ELD is self-executing in that an operator has a duty to carry out initial actions to prevent or remediate an imminent threat of, or actual, environmental damage even without the intervention of a competent authority. The competent authority may well be, and usually is, involved in these initial actions (in addition to its duty in respect of longer term primary, complementary and compensatory remedial actions) but, as noted above, it appears that many competent authorities are continuing to enforce domestic legislation rather than the ELD.

Still further, due to the continued enforcement of domestic law instead of the ELD in many – but not all – Member States and the lack of knowledge of the ELD amongst many competent authorities, operators and other stakeholders, significant environmental governance issues arise particularly when a competent authority has a duty rather than a power to enforce the ELD but fails to do so.

Good practices

The MAWP sets out good practices under the ELD in its three pillars, as indicated above. Studies commissioned by the European Commission to implement the initial phases of the MAWP have, therefore, focused on these three areas. They include establishing: an EU-wide information system (register) on environmental liability cases, both under the ELD and the domestic law of Member States; the template for a register including details of ELD cases; and an IT tool to support the register. The MAWP also encourages good practices under the ELD by the preparation of a common understanding document of ELD key terms and concepts; and the development and application of accessible, user-friendly tools and other administrative support measures for use by competent authorities and other stakeholders.

Limitations

The good practices set out above, which will lead to further good practices under the ELD itself, can only be established with the co-operation of Member States and competent authorities in them. The success of the MAWP and better implementation of the ELD therefore is largely dependent on this co-operation which may not be uniform across all the Member States of the EU.

¹⁹ Directive 2000/60/EC establishing a framework for Community action in the field of water policy. (2000) OJ L140/114; consolidated version; <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:02000L0060-20141120>

²⁰ Directive 2009/147/EC on the conservation of wild birds (codified version). (2010) OJ L 20/7; <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32009L0147>

²¹ Directive 92/32/EEC on the conservation of natural habitats and of wild fauna and flora. (1992) OJ L 206/7; <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:31992L0043>

The success of the revised training programme to be carried out under the MAWP is also subject to the individuals who are trained understanding the complexities of the ELD and their practical enforcement. Further, especially in respect of environmental governance, the success of the revised training programme is subject to individuals in competent authorities understanding the relationship between the ELD and their domestic environmental liability legislation and knowing which legislation to implement and enforce.

Relevance to specific themes

The ELD and the MAWP are relevant to the following themes.

The ELD itself addresses themes under the following environmental governance dimensions.

Dimension: Compliance assurance and accountability: the ELD imposes strict liability on Annex III operators who caused environmental damage to prevent and remedy damage to protected species and natural habitats, water damage and land damage; and fault-based liability of non-Annex III operators to prevent and remedy damage to protected species and natural habitats

Dimension: Participation: article 12 of the ELD provides a right to eligible persons to request action by a competent authority.

Dimension: Access to justice: article 13 of the ELD provides the right of legal review to eligible persons to challenge the procedural and substantive legality of the decisions, acts or failure of a competent authority to act before a court or another independent body

The MAWP addresses, in particular, themes under the following environmental governance dimensions.

Dimension: Transparency: establishment of the EU-wide register, including details of environmental liability cases, both under the ELD and the domestic environmental liability law of the Member States will increase transparency of implementation and enforcement of the ELD. The reliability of the information in the register, however, depends on submissions of such data by Member States and competent authorities and the accuracy of the submissions.

Dimension: Participation: the revised training programme and publication of the ELD-wide register will help facilitate exercise of the right under articles 12 and 13 of the ELD by eligible persons to submit observations on environmental damage to competent authorities and to initiate legal review of the authority's decisions, acts or failure to act. The increased training and availability of information on the ELD should also facilitate implementation of the ELD by increasing awareness by competent authorities and other stakeholders.

Conclusions

The European Commission has initiated environmental governance measures and other measures under the MAWP to improve implementation of the ELD across the EU. Whilst the ELD is being implemented well in a few Member States, notably Hungary and Poland, this appears in part to be due to those Member States including more stringent measures in transposing the ELD. The existing levels of progress in individual Member States in implementing the ELD pose substantial challenges to be overcome in order to improve environmental governance across the EU.

12. Aarhus Convention Indicators

Introduction

The **Aarhus Convention Indicators (ACI)** shall help to assess how well a country/party protects the rights stipulated in the Aarhus Convention on Access to Information, Public Participation and Access to Justice in Environmental Matters (Aarhus Convention). The ACI includes two separate sets of indicators: a **legal set** consisting of 86 indicators responding to eight articles of the Aarhus Convention (Articles 2 to 9), and a **practice set** of 69 indicators responding to the same eight articles and the regular reporting obligation on Article 10(2).²² The legal indicators aim to measure how well obligations under the Aarhus Convention are transposed into national laws and regulations. The practice indicators aim to assess how the Aarhus Convention is being implemented in practice.

The ACI have been drafted by the Access Initiative and the World Resources Institute in collaboration with regional experts. In a pilot phase the ACI have been tested for Armenia, the Czech Republic, Serbia, Ukraine, and the UK resulting in a final summary report in 2017.²³ The scoring is mainly based on desktop research and does not include extensive surveys, data analysis, or field research, though it might involve a few interviews. However, the scores given by researchers/reviewers in respect of the practice indicators have to be explained and the explanations are subject to multiple reviews.

A full roll-out to all Aarhus Convention Parties is planned with the intention to then display scores of the ACI on a public interactive map, along with sources, comments and dialogue between researchers and reviewers. This would then represent the **Aarhus Convention Index**. However, the validation of the indicator framework is still pending. It is planned to refresh and renew the Aarhus Convention Index every three years to coincide with the Meeting of the Parties (MoP).

The Aarhus Convention Index aims at enabling researchers to benchmark the quality of a country's laws and practices against the Aarhus Convention. The scoring based on the ACI shall be used to identify gaps in laws and practices, prioritise reforms and provide models, through international comparison, of good laws and practice. Together with complementary resources such as the Aarhus Convention Implementation Guide (2014),²⁴ the Aarhus Convention Index is intended to encourage and facilitate the improvement of laws and practices to secure the rights as laid down in the Aarhus Convention.

Overall relationship to environmental governance

²² Neither legal nor practice indicators have been developed in respect of Article 1, or Article 10 onwards (with the exception of the practice indicator for Article 10(2)) of the Aarhus Convention, as these provisions do not appear to impose obligations that require transposition into national law.

²³ See <http://accessinitiative.org/resources/aarhus-convention-indicators-summary-report>

²⁴ See

http://www.unece.org/fileadmin/DAM/env/pp/Publications/Aarhus_Implementation_Guide_interactive_eng.pdf

As the Aarhus Convention is a core element of the environmental governance system, its provisions are of high relevance to environmental governance assessments. In particular, the following dimensions of environmental governance are at the core of the Aarhus Convention, the Aarhus Convention Indicators and thus also of a possible Aarhus Convention Index: Transparency and specifically Access to Information, Participation as well as specifically Access to Justice.

Good practices

While the accompanying guidance notes to the legal indicators are largely confined to the definition of the scores (typically: "3 = Enactment is fully in accord; 2 = Minor errors; 1 = Errors that are more than minor; 0 = Has not been enacted at all"), the guidance notes relating to the practice indicators are more meaningful in terms of providing practical indications for the assessment of individual countries' performance. E.g., regarding the implementation of Article 4(7) on refusals of requests for environmental information, the following background considerations are provided:

"Note that refusal is not a black and white issue: in practice authorities that do not wish to provide the requested information might give it only in part and ignore the other aspects of the request or after such a delay that obtaining the information is by then futile. [...] Whilst all of these scenarios may not be relevant or may not yet have been tested in the context of the Party, please consider insofar as possible and where relevant, inter alia:

- cases where the authority answers the information request only in part [...]
- cases where the authority does not give any substantial explanation for refusing the request [...]
- any references made by authorities to their "tacit agreement" or "positive silence" in seeking to defend their neglect of information requests [...]
- any references by authorities to actively disseminated information when seeking to explain their neglect of information requests [...]"

Furthermore, for each of the cases listed above, reference cases are provided in a separate document. These are mostly drawn from the Compliance Committee's records and from the national implementation reports prepared for the MoP. In this way, the guidance provides a valuable reference manual where the mentioned documents are structured along their relevance to the implementation of individual articles and paragraphs of the Convention.

Similarly, while the definition of scores is relatively uniform for the legal indicators, it shows a great variation for the practice indicators, mirroring an effort to adapt the scoring definitions for each single paragraph. E.g., with regard to Article 4 (7), the wording of the indicator is: "Are instances of refusal provided (i) in writing (if request was in writing or applicant requests), (ii) within the prescribed time frames, (iii) with reference to the reasons for refusal and (iv) with information on access to the review procedure provided under article 9?", and the corresponding scores are defined in the following way:

3 = All four criteria are always or almost always met in practice

2 = All four criteria are met in the majority of cases *or* Three of the four criteria are always or almost always met in practice

1 = Only one or two of the four criteria are always *or* almost always met in practice *or* Only in a minority of cases are all four criteria met in practice

0 = Never or almost never are all four criteria met in practice.

This highly refined scoring system may be helpful in producing scorings that very accurately reflect a country's status of implementing the Aarhus Convention. However, it can be expected to be difficult to handle and requires a large time effort.

Limitations

The Aarhus Convention "indicators" themselves are shaped in a manner that does not go a long way to operationalise each aspect of the Aarhus Convention for examination; instead, the indicators literally refer to each paragraph treated, e.g., as legal indicators: "How well has Art. 4(1)(a) been enacted?" or "How well has Art. 4(1)(b) been enacted?", and as practice indicators: "As a general matter, how good has the Party's performance been in practice in terms of ensuring access to environmental information in accordance with Art. 4(1)?" or "In practice, how good is the Party's performance in terms of complying with the first sentence of Art. 4(2)?"

Instead, help for the operationalisation of these indicators is provided in the guidance notes, at least for the practice indicators, as mentioned under "Good practices" above.

The great level of detail of the framework, both in terms of indicators and background information, may be an asset but also a drawback because it requires a great level of effort and, at least for the legal indicators, largely leaves it to those performing the assessment to find criteria to substantiate the scoring. An alternative, time-saving way could have been to find a selection of much fewer, but more strongly operationalised indicators that provide "flashlights" to characterise the situation in a given country.

Relevance to specific themes

As stated above, the Aarhus Convention is a key reference to the three dimensions of Transparency, Participation and Access to justice. Within these dimensions, certain themes are extensively covered by the Aarhus Convention Indicators while others are more indirectly touched. Furthermore, the Aarhus Convention also has some relevance with regard to other dimensions of environmental governance.

The following themes are in the focus of the Aarhus Convention:

- Under the dimension of **Transparency**, Theme 3) Access to (environmental) information and Collection and Dissemination of Environmental Information
- Under the dimension of Public **Participation**, in particular Theme 5) Stakeholder engagement
- Under the dimension of **Access to justice**, in particular Theme 9) Access to justice, Theme 10) Effective remedies, and Theme 11) Practical information (opportunities for Access to Justice)

As the Aarhus Convention Indicators refer strictly to the structure and text of the Convention itself, it can be expected that their relevance to specific environmental governance dimensions and themes is strictly proportional to the relevance of the corresponding provisions of the Convention. Therefore, it is not examined separately here; instead, we refer to what has been said in the analysis of the reporting frameworks under the Aarhus Convention.

As an overarching aspect, prior to entering into specific environmental governance dimensions and themes, the framework also provides indicators to assess how individual aspects of the definitions (Article 2 of the Aarhus Convention) have been implemented, i.e. the definitions of "Party", "Public authority", "Environmental information", "The public" and "The public concerned".

Conclusions

The Aarhus Convention Indicator set provides a meticulous framework for a scoring of countries along virtually all articles and paragraphs of the Convention. As has been stated under "Limitations", the indicators themselves largely refer to the wording of the Convention and thereby provide little help for operationalisation for the purposes of the assessment. However, as has been mentioned in the "Good practices" section, the guidance notes at least for the practice indicators do provide valuable considerations and background information for assessing a country's performance.

The scoring system is likely to provide very accurate results but requires a great, potentially disproportionate effort from those performing the assessment.

13. European Public Administration Country Knowledge (EUPACK)

Introduction

This assignment is designed to support the Commission in ensuring consistent and coherent knowledge on the characteristics of public administrations across all EU Member States; deepening its understanding of public administration functioning based on common approach and methodology, and capture of reform initiatives and dynamics and understanding the role of external (EU funded) support to administrative reform process.

The project "Support for developing better country knowledge on public administration and institutional capacity building" (hereafter European Public Administration Country Knowledge – EUPACK) has as a main goal to enhance knowledge and understanding of the status and reform dynamics of public administration in EU Member States, as well as the contribution of external support for improving its quality, with a view to better targeting EU support in this area in the future.

One of the main outputs of the project was a study titled 'Comparative overview of public administration characteristics and performance in EU28' (2018)²⁵ which provides a comparative analysis of the key characteristics and performance of the national administrations in the EU. It explores five dimensions of the public institutions in EU countries: transparency and accountability, organisation, policy making, human resources management and service delivery. The analysis is based on systematic evidence that was collected by an EC research project between end 2016 and April 2017. The quantitative and qualitative information maps the similarities and differences among the 28 EU Member States with regard to size of government, scope and structure of public administration, key features of the civil service system, the politico-administrative context and especially an indicator-based assessment of government capacity and performance in the five dimensions of administrative reform. This overview is a first step to understand better the specific characteristics, functioning and change dynamics of public administration across the EU Member States.

The study above was compiled based on 28 country studies, delivering a substantive overview of public administration systems, culture and functions encompassing the formal and informal characteristics of public administration systems and its functioning in the different MS. These studies, titled 'Public administration characteristics' were produced for each Member State (Task 1). A quantitative (indicator/data-based) and qualitative interpretative analysis was used to provide a systematic and comparative status quo synthesis of key areas in each of the different MS with regard to capacity, management and performance of public administration.

Furthermore, within the EUPACK project, separate MS reports on 'Public administration reform trends and reform dynamics' have been prepared and are available to the project team. These reports strive to capture reform dynamics in each Member State over time. They investigate and analyse the key changes and reform patterns and outcomes in each Member State.

Note: Outputs of Task 3 and 4 were not made available to the project team.

Overall relationship to environmental governance

It is in the interests of the EU citizens and Member States, to ensure good governance and quality of public administrations and to achieve maximum value from finite public funds and create a public-private interface that raises employment and growth²⁶. Worldwide, the evidence is irrefutable: high productivity, high income per head economies have the most effective and efficient public institutions. The internal market cannot be completed, the EU acquis cannot be effectively implemented, and the goals of smart, inclusive and sustainable growth cannot be realistically achieved without good governance.

Member State administrations currently face the triple challenge of: delivering better with less - meeting societal & business needs in times of tighter budgets; adapting service provision to

²⁵'Comparative overview of public administration characteristics and performance in EU28': <http://ec.europa.eu/social/main.jsp?catId=738&langId=en&pubId=8072>

²⁶ 'Comparative overview of public administration characteristics and performance in EU28', Introduction Page 2: https://www.transparency.org/news/feature/corruption_perceptions_index_2017,

demographic, technological and societal changes; and improving the business climate through fewer and smarter regulations and better services in support of growth and competitiveness.

Good practices

The national studies under Task 1 identify good practices which can be of interest to environmental governance assessment (EGA) and can be included to support the COM effort to feature good practices on governance in the 2019 edition of the Environmental performance reviews.

Limitations

The EUPACK does not go in depth in terms of sector –specific governance issues, therefore although some of the information and analysis can be used, still these might not address environmental governance aspects.

Relevance to specific themes

Especially relevant to the Environmental governance assessment are the data and statistics demonstrated in sections listed below of the ‘Public administration characteristics’ studies developed for each Member State. They feature, among other, data on size of government and proportion of staff engaged in the different administrative levels as well as the staff’s distribution between institutions and sectors covering:

- ‘Government transparency and accountability’, relevant to both Access to information and Compliance assurance and accountability dimensions
- ‘Service delivery and digitalization’, relevant to Access to information dimension
- ‘Policy-making, coordination and regulation’, relevant to Compliance assurance and Compliance assurance and accountability dimension
- ‘Key indicators to assess Government Capacity and Performance’, relevant to compliance assurance and accountability dimension

Conclusions

There is a compilation of relevant national indicators in the ‘Public administration characteristics’ studies which might be a source of data for the governance assessment on selected aspects of the studied dimensions above, considering the limitation noted above. The national sources are clearly referred and can be used as already systemized sources for identifying relevant national data to populate the environmental governance assessment.

14. Monitoring of progress under the EU Energy Union

Introduction

On 25 February 2015, the European Commission adopted a Communication on a Framework Strategy for the Energy Union²⁷, which explains that the Energy Union needs an integrated governance and monitoring process, to make sure that energy-related actions at European, regional, national and local level all contribute to the Energy Union's objectives.

On 30 November 2016, the Commission published a new energy package in the context of its Energy Union strategy, formally titled "Clean Energy for All Europeans", informally known as the "Winter Package".²⁸ Inter alia, it contains a proposal for a Regulation on the Governance of the Energy Union.²⁹

According to the proposed governance regulation, Member States will be required to develop Integrated National Energy and Climate Plans (NECPs) that cover the five dimensions of the Energy Union (energy security; the internal energy market; energy efficiency; decarbonisation; research, innovation and competitiveness) for the period 2021 to 2030 and every subsequent ten year period. In addition, Member States will be required to report on the progress they make in implementing the NECPs, mostly on a biennial basis, starting from 15 March 2021. The proposal for the regulation on the Governance of the Energy Union contains requirements for both NECPs³⁰ and biannual implementation reports, with further details on reporting standards to be specified later by the European Commission.

Already now, the European Commission is producing regular reports on the state of the Energy Union, the third and most recent one having been published in November 2017.³¹ As part of the first State of the Energy Union report³², a set of key indicators³³ was proposed for each of the five dimensions of the Energy Union; together with the second State of the Energy Union report COM (2017) 53 final³⁴, the set of indicators was revised and now consists of 25 indicators.³⁵

Overall relationship to environmental governance

The governance of the Energy Union centres on issues of governance between the EU and the Member States levels, rather than governance within Member States. Plans and implementation reports are intended to provide a comprehensive information basis for the Commission to assess the progress in implementing the Energy Union and the EU's energy and climate targets. On the

²⁷ COM (2015) 80 final.

²⁸ See Vandendriessche, Marie, Saz-Carranza, Angel, and Glachant, Jean-Michel (2017): The Governance of the EU's Energy Union: Bridging the Gap? European University Institute, Robert Schuman Centre for Advanced Studies, Florence School of Regulation, RSCAS 2017/51.

²⁹ Proposal for a Regulation of the European Parliament and of the Council on the Governance of the Energy Union, COM (2016) 759 final/2 (Corrigendum of 23.2.2017 to the text of 30.11.2016).

³⁰ More general guidance on NECPs was already issued with the first communication on the State of the Energy Union in 2015, COM (2015) 572 final.

³¹ COM (2017) 688 final of 23.11.2017.

³² COM (2015) 572 final of 18.11.2015.

³³ Monitoring progress towards the Energy Union objectives - Concept and first analysis of key indicators, SWD (2015) 243 final.

³⁴ COM (2017) 53 final of 1.2.2017.

³⁵ Monitoring progress towards the Energy Union objectives – key indicators, SWD (2017) 32 final.

basis of this assessment, the Commission can take various types of action, e.g. issue recommendations to Member States or require them to take additional measures.

Good practices

The planned reporting system under the EU Energy Union is intended to contribute to the objective of better regulation by streamlining existing reporting requirements for Member States.

Another interesting feature may consist in the interactive viewing and export tools related to the Energy Union indicators that are provided on the Commission's website. These include a "Scoreboard" function³⁶ (overview of the state of indicators in the five dimensions of the Energy Union for all Member States), a "Datamapper" function³⁷ for the graphical representation of indicators on an EU map, "Factsheets"³⁸ containing of graphics for individual Member States or comparing Member States' status on Energy Union indicators, and "Data and Charts"³⁹ with the possibility to display the underlying information in the form of charts or spreadsheets.

Limitations

The content and indicators of progress reporting on the Energy Union do not primarily refer to governance matters, but to technical matters such as energy import dependency, shares of renewable energy or spending on research and development.

Relevance to specific themes

The relevance of Energy Union progress monitoring to specific themes of environmental governance is limited. Rather than the content of reports, their existence and associated processes are related to certain environmental governance themes. However, as the governance of the Energy Union is an issue referring to the EU level and provides standard requirements for all Member States, it can be expected to be only of limited interest when it comes to assessing specific features and the overall status of environmental governance *within* Member States.

There is some relation to the horizontal theme of **Multi-level governance culture** but, as stated above, this refers more to governance between the EU and its Member States than to different levels of governance within Member States. The regional cooperation required for the process of establishing NECPs according to Article 11 of the proposed governance regulation also contributes to an enhanced culture of governance among Member States.

Under the dimension of *Transparency*, progress monitoring of the Energy Union obviously relates to the theme of **Evidence/reporting**. The reporting standards imposed on Member States also contribute to the **Reliability and quality of information**.

In its conclusions on the 2030 Climate and Energy Policy Framework of 23/24 October 2014⁴⁰, the European Council agreed to "step up the role and rights of consumers, transparency and predictability for investors, inter alia by systematic monitoring of key indicators for an affordable,

³⁶ https://ec.europa.eu/energy/en/atico_country sheets/scoreboard

³⁷ https://ec.europa.eu/energy/en/atico_country sheets/datamapper

³⁸ https://ec.europa.eu/energy/en/atico_country sheets/factsheets

³⁹ https://ec.europa.eu/energy/en/atico_country sheets/database

⁴⁰ EUCO 169/14.

safe, competitive, secure and sustainable energy system". While the reference to the "role and rights of consumers" alludes to the Participation dimension, the context of this mention suggests that this relates more to the Transparency dimension, i.e. availability and reliability of information, than to active participation.

Under the *Participation* dimension, **Stakeholder Engagement** is affected insofar as public participation is required in the process of setting up NECPs. According to Article 10 of the draft governance regulation, "Member States shall ensure that the public is given early and effective opportunities to participate in the preparation of draft plans [...] and attach to the submission of their draft integrated national energy and climate plan to the Commission a summary of the public's views." However, the process and scope of public involvement is not further specified so this requirement can be seen as reflecting current governance standards rather than aiming at more ambitious levels of participation. The draft governance regulation does not set any requirements for public involvement in the drafting of Member States' reports on implementation.

Certain relevance to **Equitability and inclusiveness** can be attributed to the indicator on "Energy affordability".

The progress monitoring of the Energy Union also has some relation to the dimensions of "*Compliance assurance and accountability*" (assessing the progress in meeting EU targets) and "*Effectiveness and Efficiency*" (as one objective of governance regulation is to streamline existing reporting requirements) but not so much to individual themes under these dimensions.

Conclusions

Although the planning and reporting framework under the EU Energy Union is entitled as "governance", it seems to be of limited relevance to the assessment of environmental governance in EU Member States. First, "governance" in this context relates to the coordination between the EU and its Member States rather than governance within Member States themselves; second, the content and indicators of reports are of rather technical nature and provide very little information on governance issues.

15. European Quality of Government Index 2017

Introduction

This document developed by the Quality of Government Institute of Gothenburg University, is the only measure of institutional quality available at the regional level in the European Union. It is funded by the European Commission, and usually published in a three-year period (first was in 2010, and the second in 2013). The aim of European Quality of Government Index (EQI) is to capture the extent of citizens' attitudes towards corruption and perceptions in relation to the delivery and impartiality of public services. Therefore, its overall aim is to provide researchers and policy makers a tool to better understand how governance varies within countries and over time. The countries included in the EQI are European Union member states, based on the 2020 regions.

For 2017, the survey consisted of 78 000 respondents. The regional data itself combines 16 survey questions about quality of governance (QoG) in the region. The services in question are public education, public health care, and law enforcement.

Overall relationship to environmental governance

The EQI does not concern environmental governance as such, but general quality of governance. Key indicators of EQI are: 'control of corruption', 'government effectiveness', 'rule of law' and 'voice and accountability'. However, the questions in the survey point to relevance particularly for the Transparency and Participation dimensions of the proposed Environmental Governance Framework. Therefore, a careful look at the survey questions will elucidate the relevance of EQI for particular themes within the Environmental Governance Framework.

Good practices

Interactive maps, scorecards and spider-graphs are provided to help the users navigate through data. Maps provide an overall view of the spatial pattern of the EQI 2017 and its three core dimensions, quality, impartiality and corruption. Scorecards allow for a detailed analysis and comparison of each region's performance either with its peers in terms of GDP per capita or with all the other EU regions. Interactive spider-graphs are available as well where two regions can be benchmarked with each other and with the European average. It is interesting that, when looking at the maps, due to the representation of the regions, it is difficult to discern the boundaries of each country. However, comparison allow country-to-country (or country-to-region) comparisons, which is of great importance for understanding the comparative trends.

Limitations

Even though the maps allow comparisons between regions, it is impossible to compare the scores with two previous surveys. However, this does not need to indicate a significant limitation as the scope of the previous two surveys was different - i.e. For 2010, the EQI contains 172 regions based on a survey that was answered by 34 000 citizen respondents; For 2013, the EQI has been expanded to 206 regions based on a survey that was answered by 85 000 citizen respondents, which is the largest sub-nationally-focused survey on QoG to date. For 2017, the survey consisted of 78 000 respondents and included 2020 regions. The actual scope of the survey also remains unclear: while the EQI data indicates that the 28 member countries, as well as 2 accession countries (Turkey and Serbia) are included, there is no data on the two countries in the maps, scoreboards, or regional benchmarkers. Additionally, although it is possible to identify scores across pillars/dimensions, substantial information about the pillars is missing, which has major implications for utilizing EQI in assessing Environmental Governance.

Relevance to specific themes

The relevance of EQI 2017 to specific themes within the Environmental Governance Framework can be adequately assessed through survey questions. A number of survey questions (7-12) address Public Confidence (7) and Equitability and Inclusiveness (8) themes of the Participation dimension. The questions 13-20 aim to reflect on citizens' attitudes on corruption (16), and to an extent, compliant handling (15). Furthermore, some of the questions can be helpful in evaluating the themes within the Access to justice dimension, as well as the access to information (3), and

administrative capacity (18). However, the information regarding environmental governance has to be (when possible) extrapolated from the general findings related to the

Conclusions

The 2017 edition of the European Quality Government Index offers valuable insights for the proposed Environmental Governance Framework. Considering that the EQI is developing and expanding over time, there is an opportunity to calibrate the future editions of EQI towards greater support and relevance to Environmental Governance assessment in the future.

However, it is important to indicate that the EQI indicators are not specific to environmental governance, more to the overall governance. Therefore, the indicators and assessment criteria used to address one or more dimensions of the proposed Environmental Governance framework are only potentially useful.

Neither an overall assessment (across the environmental policy domain) nor specific assessments (per policy area: air, nature, water, chemicals, industrial, and waste as well as horizontal legislation) would be possible on the grounds of the methodological framework of the EQI.

However, a rather significant number of EQI questions, paired with other assessment forms, can be taken into consideration in developing a targeted assessment framework of environmental governance.

16. IMPEL Review Initiative

Introduction

Among the work by the European Union Network for the Implementation and Enforcement of Environmental Law (IMPEL), the IMPEL Review Initiative (IRI)⁴¹ is a voluntary scheme providing for informal reviews of environmental authorities in IMPEL Member countries. It aims at looking at the processes and procedures of environmental authorities in IMPEL member countries and identifying areas of good practice and opportunities for further development. It was set up to implement the European Parliament and Council Recommendation (2001/331/EC) providing for minimum criteria for environmental inspections (RMCEI). IRI is intended to enable the host environmental authority and the review team to explore how the authority carries out its tasks. As to methodology, a tailored questionnaire, which identifies the topics on which the review focuses, is drafted and sent out in advance to the host authority. The review itself is conducted over several days at the premises of the host authority by a review team consisting of approximately eight IMPEL experts from different countries with relevant expertise in policy, technical and organisational areas. The outcome of the peer review is embedded in a report that is published on the IMPEL website. In addition to the general IRI, the Green IRI focuses on current

⁴¹ <https://www.impel.eu/projects/impel-review-initiative-iri-2015-programme/>.

situation in relation to the implementation and enforcement of EU legislation on nature conservation (mainly the Birds and Habitats Directives).⁴²

Overall relationship to environmental governance

In assessing the work performed by a given environmental authority in the implementation of its tasks, this voluntary review scheme addresses profiles which are of key relevance to environmental governance, particularly as far as compliance assurance is concerned (see also limitations and relevance to specific themes).

Good practices

The IRI provides advice to hosting environmental authorities seeking an external peer review of their structure, operation or performance by experts from other IMPEL member countries. Thus, it encourages capacity building in environmental authorities and fosters the exchange of experience and collaboration between these authorities on common issues and problems.

Importantly, the questionnaire is based on a wide number of questions and assessment criteria with regard to the permitting and inspection activities (with a view to both planning and execution), resource and capacity issues and performance and monitoring of the host environmental authority. The findings of IRI is a list of good practice and opportunities for development of the given institution, and include specific recommendations for improvement. The findings of the peer review are of great relevance for the host authority concerned to take specific and concrete actions for improvement accordingly.

Green IRI is performed through the involvement of stakeholders and other environmental authorities and its findings highlight the level of cooperation between the host environmental authority and other authorities and NGOs.⁴³

Publication of the IRI and Green IRI on the IMPEL website allows spreading good practice among Member States with regard to the work of environment authorities, thus potentially contributing to the improvement of quality and consistency of application of environmental law across the EU Member States. At the same time, it provides EU and national policy makers with relevant evidence base on the strengths and room for improvement of the work carried out by a given environmental authority; this may allow policy makers to take actions, e.g. it may allow national policy makers to assess whether a change of the legal mandate of environmental inspectorates is necessary. Publication of IRI also provides the public with relevant environmental information.

Limitations

Overall, the number of IRIs performed so far can be considered limited in terms of Member States and, particularly, environmental authorities involved in the peer review process. The latter is a particularly relevant limitation in terms of relevance of the findings, since in a given Member State multiple authorities are involved in the same ring and in the various rings and of the compliance

⁴² See for instance the 2016 Green IRI Italy, <https://www.impel.eu/wp-content/uploads/2016/12/FR-2016-22.2-IRI-Italy.pdf>.

⁴³ See for instance the 2016 Green IRI Italy.

assurance chain,⁴⁴ and multiple local branches of a same environmental authority have competences on a given environmental issue from a territorial point of view. The findings of the peer review may be significantly affected by the specificities (e.g. in terms of staff capacity or role within the overall national environmental governance structure) of the hosting institutions; as a consequence, while the outcome of the peer review is certainly significant to the host environmental authority, the actual possibility to extend the outcome of the IRI (e.g. in terms of diffusion of identified good practice) to other environmental authorities of the Member State concerned and/or of authorities of other member States may end up being limited, as may the possibility for policy makers to use the findings as a base to take actions for improvements.

Relevance to specific themes

With the limits highlighted above, the IRI is relevant to compliance assurance and accountability, and particularly to the theme of compliance monitoring, follow-up and enforcement, including the issue of cooperation of environmental authorities in compliance assurance.

The IRI is also relevant to complaint handling and improving public information and awareness. It is also relevant to effectiveness and efficiency, and particularly to administrative capacity of environmental authorities as well as, with regard to Green IRI, to cooperation with relevant civil society environmental organizations.

The publication of the IRI on the IMPEL website makes this peer review scheme relevant also to other themes, particularly in terms of increasing transparency (environmental information) and participation (public confidence).

Conclusions

IRI provides important input as far as environmental compliance assurance is concerned, highlighting the reality of daily management processes on the part of a given environmental authority. The findings of the peer reviews are of extreme relevance in terms of subsequent actions for improvement by the hosting authority as well as of related interventions of policy makers. However, the same features of the peer review scheme and the limited number of environmental authorities who hosted the peer review so far, may limit the actual relevance of the findings in terms of spreading good practice across EU environmental authorities due to the role played by the specificities of the host environmental authority. IRI represents a useful framework for the assessment of compliance assurance and administrative capacity, particularly with regard to environmental inspectorates; at the same time, the publication of the finding of IRI makes the peer review scheme relevant to transparency and participation.

⁴⁴ Interaction between the hosting authority and other authorities is to a greater extent taken into consideration within the Green IRI.

17. IMPEL 2015 Implementation Challenge Report and 2016 and 2017 Follow Up

Introduction

Among the work by the European Union Network for the Implementation and Enforcement of Environmental Law (IMPEL), the 2015 Report ‘Challenges in the practical implementation of EU environmental law and how IMPEL could help overcome them’ (Implementation Challenge Report) and its 2016 and 2017 Follow Up⁴⁵ aim to investigate the challenges that environmental authorities face in the practical implementation of environmental law in their countries and how IMPEL might support them in overcoming these challenges; the results help inform decisions on priorities for IMPEL’s work programme. As far as methodology is concerned, the Implementation Challenge Report and follow up are based on online questionnaire surveys involving its member organisations; information sent by respondents is later collated and analysed and embedded in a report.

Overall relationship to environmental governance

The 2015 Report and 2016 and 2017 Follow Up focus on identifying challenges (and reasons thereof) in the implementation of the EU environmental acquis; thus, they are of relevance with regard to several profiles of environmental governance, and particularly to compliance assurance (see also limitations and relevance to specific themes).

Good practices

Importantly, the questionnaire is structured to look at obstacles and challenges from several angles:

- thematic areas: industry, noise and air quality, waste and trans-frontier shipment of waste, protection of water and land, nature protection and cross-cutting legislation;
- cross-cutting issues: planning, permitting, compliance promotion, application, environmental monitoring and assessment, risk assessment, inspections and other forms of compliance monitoring, enforcement, investigation and prosecution and views on prioritisation and support;
- trans-boundary and trans-sectoral issues, solutions and cooperation to improve application and enforcement across administrative and jurisdictional boundaries.

The Report and Follow Up monitor implementation gaps and its causes from the viewpoint of practitioners (environmental authorities); their outcome can play a role in identifying possible remedies as well as developing and publicising practical approaches which can help filling these gaps. The identification of practical obstacles to implementation and avenues to eliminating them can, *inter alia*, reduce administrative burdens and reduce costs of implementation. The 2016 Follow Up aims to embed relevant findings in the IMPEL work programme through discussions with the expert teams, namely Industry Regulation, Waste and Trans-frontier Shipment of Waste, Land and Water, Nature Protection and Cross-Cutting Tools and Techniques. The 2017 Follow Up provides more detail about the perceived causes of the implementation challenges. In particular,

⁴⁵ <https://www.impel.eu/projects/implementation-challenge-embedding-the-results-in-impels-work-programme/>

it confirms that the lack of overall staff resources and suitably qualified personnel in regulatory authorities continues to be the most commonly-reported barrier to achieving effective implementation of environmental law; lack of skills at municipal level, insufficient data, evidence and information and inadequate sanctions and low level of fines continue to be problematic. This information is used to make proposals for IMPEL on how those challenges might be overcome, namely through 28 recommendations for IMPEL to consider in how it could further support its member organisations in improving the level of implementation of environmental law. The report and follow up make a contribution to the evidence base for EU policy makers. For instance the 2017 Follow Up shows a lack of engagement with local authorities who have a critical role in environmental compliance assurance in many (but not all) countries, for example, in local air quality management plans, river basin management plans, environmental impact assessment, environmental permitting, monitoring and many other functions. Distinction between waste and non-waste and between hazardous and non-hazardous waste is another example.

Limitations

Although, as mentioned above, the findings can make a contribution for evidence base by policy makers, it should be borne in mind that the approach is internal to IMPEL members with regard to both the respondents to questionnaire surveys on which it is based and the aim of the surveys and resulting reports. The level of general representativeness of the answers to the questionnaire may be regarded as uncertain: with regard to the 2017 Follow Up, 63 responses were received from 28 different IMPEL member states through the IMPEL National Coordinators who aggregated the answers by national authorities; the modalities of distributing the questionnaire at national level varies (e.g. all inspectors and practitioners or selected environmental authorities, as partly consequently varies the number of answer per Member State). Results of the analysis of the responses to the questionnaire are not displayed by Member State, thus they are not useful for the public and policy makers to assess the specific Member States' challenges in the implementation of environmental legislation (and related profile of environmental governance). The main thrust of the aggregation of the results is on the role that IMPEL can play in overcoming implementation challenges and on how to draft IMPEL work programme accordingly.

Relevance to specific themes

With the limitations highlighted above, the 2015 Implementation Challenge Report and 2016 and 2017 Follow Up are relevant to the following themes of relevance to environmental governance assessment:

- Compliance assurance and accountability, with particular regard to Monitoring, Inspection, Enforcement
- Effectiveness and Efficiency, with particular regard to Administrative Capacity (particularly, environmental inspectorates)

The Report and Follow Up can be of (more limited) relevance also to other themes, such as access to justice.

Conclusions

The 2015 Implementation Challenge Report and 2016 and 2017 Follow Up provide relevant information on obstacles and challenges that competent authorities face when applying or enforcing EU environmental legislation, as well as on innovative practices and solutions developed to overcome them. Importantly, the questionnaire on which surveys are based is structured to look at obstacles and challenges from several angles: thematic areas, cross-cutting issues and trans-boundary and trans-sectoral issues, solutions and cooperation. However, the logic underpinning the analysis and aggregation of results is specific (and limited) to IMPEL role in overcoming implementation challenges; the results of analysis of the responses to the questionnaire are not displayed by Member State, with the consequence that challenges which are specific to a given Member States cannot be identified by reading the Report and Follow Up. The Report and Follow Up make a contribution to the evidence base for EU policy makers and provide relevant information for assessing environmental governance at the aggregated EU level, particularly with regard to monitoring, inspection and enforcement and administrative capacity of environmental inspectorates.

18. “Towards an improved assessment of environmental compliance assurance”

Introduction

This scoping study carried out by COWI and Environmental Agency of Austria (UBA) team under a contract with DG ENV explores options and identifies possible solutions for assessing how environmental compliance assurance works in the EU Member States. The study main findings are presented in a report titled ‘Towards an improved assessment of environmental compliance assurance, Results of the scoping phase, Study report’ (2017)⁴⁶.

The study reviews policy context of the main environmental compliance assessment issues, identifies existing frameworks at the European and Member State levels and highlights existing best practices. Drawing on the identified good practices, the study then defines a conceptual framework for the assessment of national environmental compliance assurance systems, including:

- a horizontal scoreboard for a Member State and a sector-specific scoreboard for each sector
- a traffic light scoring system that assesses the extent to which a Member State has established appropriate compliance assurance systems, enabling comparison across Member States

The team selected Austria and Ireland to conduct a pilot test of the proposed Environmental Compliance Assurance (ECA) framework, assessing the feasibility and challenges of applying the framework in practice. The pilot testing identified several challenges and barriers to learning and

⁴⁶ COWI and Environmental Agency of Austria, (2017) *Towards an improved assessment of environmental compliance assurance, Results of the scoping phase Study report*, <https://publications.europa.eu/en/publication-detail/-/publication/c9822c06-4e7d-11e8-be1d-01aa75ed71a1/language-en>

comparability across Member States and developed recommendations for the future assessment work.

The proposed horizontal assessment system includes 15 criteria and 23 indicators and focuses on three building blocks:

- Organisation (e.g. legal powers, capacity and resources of authorities)
- Activities (e.g. enforcement strategy, planning, monitoring, follow-up, feedback)
- Governance (e.g. coordination, cooperation, transparency, complaints handling, public participation).

The sector-based assessment system focuses on compliance assurance in water, waste, industrial emissions, and nature and biodiversity sectors. For each sector key compliance issues are identified to be explored during the assessment.

The overall proposed assessment framework is rather extensive and consists of 11 Microsoft Excel based scoreboard sheets per country including the scoring result, country fiche, horizontal scoreboard, 4 sectoral scoreboards and lists of challenges for each sector. The pilot cases for Austria and Ireland were delivered separately and were not included in the report.

Overall relationship to environmental governance

The study focuses on compliance assurance which is somewhat a narrower topic, but it explores important aspects of environmental governance such as accountability, enforcement, effectiveness and efficiency. The study also analyses practical implementation challenges with assessing performance of national systems and provides recommendations and good practices which are relevant for evaluating environmental governance of the EU Member States.

Good practices

The study findings are rather universal and relevant for any external evaluation including the assessment of environmental governance. The key recommendations for the assessment framework design are as follows:

- Create a solid baseline focusing on sector or country-specific challenges
- The assessment framework should be flexible enough to address different legal cultures and different administrative set-ups in the Member States
- Keep a balanced framework with a relatively limited number of assessment criteria and questions
- Design the assessment system according to resources available
- Consider carefully scorings and weightings
- Consider the need for qualitative and quantitative indicators and their respective balance.

In terms of the application of the assessment framework, the following recommendations were identified based on the testing experience:

- Develop detailed instructions for the assessors/evaluators
- Launch the assessment in an aggregated, step-wise manner
- Establish common understanding and terminology

- Link the benchmarking to learning and promote best practices
- Prepare and present easy-to-understand data illustrations reflecting progress within a Member State and comparisons among Member States.

Limitations

The scoping study focuses on a limited number of topics relevant to environmental governance such as accountability, enforcement, effectiveness and efficiency and not all aspects relevant to environmental governance within these topics are explored. In addition, this framework was tested only on two countries, therefore it's not yet clear if it would work well for all EU Member States given the variety of legal cultures and administrative set-ups.

Relevance to specific themes

The study proposes the methodology for assessing environmental compliance assurance. In this respect it's relevant for assessing accountability and partly access to justice as it explores legal powers, capacity and resources of competent authorities, strategic planning, monitoring and follow up of compliance assurance actions as well as coordination, cooperation, complaints handling and public participation.

It also provides guidance for assessing compliance assurance in several sectors such as water, waste, industrial emissions, and nature and biodiversity, which partly overlap with seven areas of the specific assessment of environmental governance: i.e. air, nature, water, chemicals, industry, and waste as well as horizontal legislation.

However, the proposed methodology was only tested in Ireland and Austria, so the study does not provide sufficient data for assessing relevant aspects of environmental governance performance in all EU Member States.

Conclusions

The scoping study proposed the methodology which could be relevant for assessing certain topics of environmental governance such as compliance assurance and accountability. It also contains valid recommendations for the design and application of environmental performance assessments. However, the proposed methodology was tested only in two Member States, so the study does not provide sufficient data for using its findings in assessing environmental governance of all the EU Member States.

19. Outputs from Umbrella Cooperation Program between World Bank and DG Regio

Introduction

The three documents analysed are assessing different aspects of governance in the European Union. Due to its relevance, this analysis will primarily focus on the Actionable Regulatory Governance Indicators for EU Regions (ARGI), whereas the Public Sector Governance Indicators for EU Regions (PSGI) and the Indicators of Citizen-Centric Public Service Delivery (CPSD) will be incorporated in the overall analysis. ARGI focuses on governance practices in two specific

regulatory domains - food safety and environmental regulations related to industrial emissions, in order to ensure a high degree of sector specific relevance and operational insight. The scope of ARGI pilot are the three regions, namely: Yugozapaden region of Bulgaria, the Campania region of Italy, and in Estonia (which in itself comprises one EU region). Because of its scope, ARGI's findings and the overall relationship to the proposed Environmental Governance framework will be accentuated. The project developed a composite regulatory governance index with scores from 0-4. The index is composed of scores from 0-1 on each of the four core dimensions of regulatory governance (design, coordination and oversight, delivery, and ex-post review). On the other hand, the aim of CPSD and PSGI is to summarize the capacity of public agencies to put the needs of citizens at the centre of their service delivery mechanisms, and develop indicators that are aimed to measure the performance of public sector institutions at the national and subnational levels, respectively.

Overall relationship to environmental governance

Even though the ARGI specifically focuses on the regions, and not on the member countries, the focus on environmental regulations makes it relevant for the Environmental Governance. Additionally, CPSD is useful in assessing a number of different dimensions and themes within the proposed Environmental Governance Framework: namely Compliance assurance and accountability, Public Confidence, but also Multi-level Governance Culture in Member States, as well as a number of themes from the remaining dimensions (see the Relevance to specific themes section). PSGI addresses a number of themes - mostly from the Compliance assurance and accountability and Effectiveness dimensions. However, the latter two are not specific to environmental aspects, but are touching upon the relevant dimensions.

Good practices

The analytical frameworks in all of the documents are based on a comprehensive overview of relevant definitions, concepts, and outlooks. The ARGI questionnaire was administered to both regional and national regulatory agencies, but also to some private sector organizations in order to identify the overlap and regulatory inconsistencies. The additional composite measures supposed to indicate regulatory governance variations across regions present an insightful methodological experiment. Qualitative analysis of the answers provided in the survey enhance the validity and allow for a more nuanced understanding of the complexities of regulatory governance. A focus on policy rather than on regional institutions exclusively captures more aspects of regulatory quality assurance mechanisms in the given region. The methodology of CPSD ensures dual assessment: focus on both the citizens and employees in public agencies.

Limitations

The amount of information presented is often visually incomprehensible (particularly with single-spaced ARGI and PSGI), which often leads to overlooking of the important components. The fact that ARGI is a pilot survey, as indicated in the report, means that the methodology is still robust and is to be approved. Furthermore, the decision not to translate Estonian surveys could hamper the overall findings. However and as previously mentioned, the most significant limitation with regard to the EG framework is the focus on the regions instead of the member states: such an

approach is not only affecting the methodology, but also obscures the role of national-level regulatory impact assessments for the regional distribution and implementation.

Relevance to specific themes

Citizen-centric Delivery Assessment predominately touches upon some of the aspects of public governance and service delivery, but they only provide information about a segment of the elements comprising effective and fair governance systems – therefore, they should be seen as a complement to other indicators. Nonetheless, the CPSD is predominately affecting Access to Information theme (Transparency dimension), Equitability and Inclusiveness, and, to an extent, Public Participation (Participation dimension), Access to Justice, Practical Information (Access to justice dimension), and Compliant Handling and Liability (Compliance assurance and accountability dimension).

Public Sector Governance Indicators for EU regions broadly covers the themes relevant for the Effectiveness (Enabling financing, Administrative capacity, Flexibility/Adaptability etc.) , Compliance assurance and accountability (all of the themes), Access to justice (i.e. Practical information), and Transparency dimension. However, none of the indicators are tailored to assess any of the environmental components or specific themes.

Actionable Regulatory Governance Indicators for EU Regions was based on the findings from a questionnaire. The questionnaire design incorporates a number of themes, namely: Cross-sectoral coordination, Administrative Capacity (Flexibility/Adaptability), Liability, Compliance Handling, Inspection/Enforcement (Compliance Assurance), as well as all of the themes within the Transparency dimension. Moreover, ARG I is based upon a wide range of data sources such as Bertelsmann Stiftung's Transformation Index (BTI), EU Quality of Government Index, and a number of others. It is also important to highlight that the survey findings confirmed that many aspects of regulatory design, ex-post review, and—to some extent—coordination are anchored more at the national level, and less so to the discretion of regional authorities (with some exceptions in countries with a high degree of decentralization or federalism, such as Italy). Delivery, however, is typically more heavily delegated to regions, both institutionally and in terms of execution. Regulatory delivery practices also showed significant variation among the surveyed regions.

Conclusions

Regardless of the issues related to scope, the approaches established through ARG I, PSGI and CPSD offer important insights and contributions to the proposed framework of Environmental Governance. A number of indicators and related data are relevant for assessing overall trends and methodological aspects of evaluating regulatory governance and public services and governance overall. The ARG I pilot-survey focuses, inter alia, on environmental regulations related to industrial emissions. This apparent relevance of ARG I for environmental dimension of governance is plagued by the ARG I's focus on the regional level, and not the member states. Nonetheless, as one of the regions is Estonia, it could be inferred that the ARG I also has implications on the national level. Additionally, PSGI contributes to the broader analysis of public-sector governance, thus important for a number of dimensions of environmental governance. On the other hand,

CPSD, by focusing on the expectations of citizens, can be used to enhance the Environmental Governance framework by providing broader insights related to the level of incorporation of citizen-centric governance indicators.

PART II. ENVIRONMENTAL GOVERNANCE LITERATURE LIST

Selected literature list for the study on “Development of an assessment framework on environmental governance in the EU Member States”

EU tools, studies and initiatives

- EU Justice scoreboard by DG JUST⁴⁷
- e-Government benchmark report by DG CONNECT⁴⁸
- Digital Single Market scoreboard by DG CONNECT⁴⁹
- EU assessment of quality of national administrations by DG EMPL⁵⁰
- Quality of public administration – A toolbox for practitioners” by DG EMPL⁵¹
- EU SDG indicator set by Eurostat⁵²
- Standard Eurobarometer 2017⁵³
- Flash Eurobarometer 2017: Citizens’ awareness and perceptions of EU regional policy⁵⁴
- European Implementation Review 2017, Country Reports and Factsheets⁵⁵
- The EEA’s Environmental Indicator Reports – e.g. latest from 2016⁵⁶
- EUPACK study commissioned by DG EMPL
- Better Regulation Guidelines⁵⁷
- Recently completed work on “Support in the implementation of the REFIT actions for the Environmental Liability Directive (ELD) – phase 1” commissioned by DG ENV and other ELD related reports⁵⁸
- The “Quality of Government in EU Member States” project commissioned by DG REGIO⁵⁹

⁴⁸<https://ec.europa.eu/digital-single-market/en/news/eu-egovernment-report-2016-shows-online-public-services-improved-unevenly>

⁴⁹ <https://ec.europa.eu/digital-single-market/en/policies/scoreboard>

⁵⁰https://ec.europa.eu/info/sites/info/files/european-semester_thematic-factsheet_quality-public-administration_en.pdf

⁵¹<https://ec.europa.eu/digital-single-market/en/news/quality-public-administration-toolbox-practitioners>

⁵²<http://ec.europa.eu/eurostat/documents/276524/7736915/EU-SDG-indicator-set-with-cover-note-170531.pdf>

⁵³<http://ec.europa.eu/commfrontoffice/publicopinion/index.cfm/Survey/getSurveyDetail/instruments/STANDARD/surveyKy/2142>

⁵⁴<http://ec.europa.eu/commfrontoffice/publicopinion/index.cfm/Survey/getSurveyDetail/instruments/FLASH/surveyKy/2145>

⁵⁵ http://ec.europa.eu/environment/eir/country-reports/index2_en.htm

⁵⁶ <https://www.eea.europa.eu/publications/environmental-indicator-report-2016>

⁵⁷ <https://ec.europa.eu/info/sites/info/files/better-regulation-guidelines.pdf>

⁵⁸ Reports available at <http://ec.europa.eu/environment/legal/liability/index.htm>

⁵⁹http://ec.europa.eu/regional_policy/en/information/publications/studies/2010/quality-of-government-in-eu-member-states-and-regions-part-1

- Eurostat SDG monitoring report⁶⁰
- On-going study on Environmental Compliance Assurance commissioned by DG ENV⁶¹
- Communication from the Commission on an Action Plan on Environmental Compliance Assurance⁶²
- Studies on the Aarhus Convention commissioned by DG ENV⁶³
- Darpo, Jan. „Access studies“ and synthesis report⁶⁴
- Darpo, Jan. Study on the Implementation of Article 9.3 and 9.4 of the Aarhus Convention in 17 of the Member States of the European Union⁶⁵
- Integration of environmental concerns in Cohesion Policy Funds (ERDF, ESF, CF) - Results, evolution and trends through three programming periods (2000-2006, 2007-2013, 2014-2020) : final report⁶⁶
- „My Region, My Europe, Our Future,“ 7th Cohesion Report⁶⁷
- Reports of the EU Network for the Implementation and Enforcement of Environmental Law (IMPEL)⁶⁸, including the ongoing work by IMPEL on “Implementation Challenges Review (2017)”⁶⁹ and the framework for Recommendation on Minimum Criteria for Environmental Inspection (RMCEI)
- IMPEL. A SURVEY ON PRACTITIONERS’ VIEWS ABOUT THE IMPLEMENTATION CHALLENGES WITH EU ENVIRONMENTAL LEGISLATION, THEIR UNDERLYING REASONS AND WAYS TO IMPROVEMENT: 2017⁷⁰
- Study on the potential of impact assessments to support environmental goals in the context of the European Semester: Final Report (RPA and EPRD, March 2015)⁷¹
- Works of the European Network of Prosecutors for the Environment (ENPE)⁷²
- Works of the EU Forum of Judges on the Environment⁷³

⁶⁰ <http://ec.europa.eu/eurostat/web/products-statistical-books/-/KS-04-17-780>

⁶¹ The project was presented at the Stakeholder Workshop on Environmental Compliance Assurance on 31

January 2017 (<http://ec.europa.eu/environment/legal/law/inspections.htm>). Results of the Scoping Phase (produced Nov 2017) have been delivered to the study team.

⁶² http://ec.europa.eu/smart-regulation/roadmaps/docs/2015_env_066_environmental_compliance_assurance_en.pdf

⁶³ <http://ec.europa.eu/environment/aarhus/studies.htm>

⁶⁴ http://ec.europa.eu/environment/aarhus/access_studies.htm

⁶⁵ <http://ec.europa.eu/environment/aarhus/pdf/2012%20access%20to%20justice%20Questionnaire.pdf>

⁶⁶ <https://publications.europa.eu/en/publication-detail/-/publication/bbecf44b-f5ba-11e7-b8f5-01aa75ed71a1/language-en>

⁶⁷ <https://publications.europa.eu/en/publication-detail/-/publication/014d75b6-ae6a-11e7-837e-01aa75ed71a1>

⁶⁸ <https://www.impel.eu/>

⁶⁹ <https://www.impel.eu/projects/implementation-challenge-embedding-the-results-in-impels-work-programme/>

⁷⁰ <https://www.impel.eu/wp-content/uploads/2018/04/FR-2017-27-Implementation-Challenge-follow-up.pdf>

⁷¹ http://ec.europa.eu/environment/integration/green_semester/pdf/IA%20Study%20Final%20Report.pdf

⁷² <https://www.environmentalprosecutors.eu/>

⁷³ <http://www.eufje.org/index.php/en/>

- Moreover, relevant projects under the LIFE and relevant EU research projects such as Horizon 2020 Societal Challenge 'Climate action, environment, resource efficiency & raw materials' in the area "Policy support & innovation procurement" will be considered.

In addition, for further ideas on data presentation and overall approach to EU policy assessment:

- Consumer scoreboard by DG JUST⁷⁴
- Monitoring progress towards the Energy Union objectives – key indicators by DG ENER⁷⁵
- Regional Innovation Scoreboard by DG GROW⁷⁶
- Climate adaptation scoreboard by DG CLIMA⁷⁷

Related sources from Member States

- Umwelt BundesAmt. UBA-Studie: Bessere Durchsetzung des Umweltrechts⁷⁸

Non-EU tools, studies and initiatives

- Sustainable Governance Index and SDG Index and Dashboards Report 2017 by the Bertelsmann Stiftung⁷⁹
- OECD Environmental Performance Reviews⁸⁰
- World Bank's Worldwide Governance Indicators⁸¹
- OECD-EU SIGMA Initiative⁸²
- OECD, Introduction to a Systemic Approach to Assess Capacity for Environmental Management (2009)
- OECD, Governance Quality Checklists (DRAFT)
- OECD, Working Party on Integrating Environmental and Economic Policies, "Measuring Environmental Compliance: Designing Analytically Sound and Policy-Relevant Indicators," ENV/EPOC/WPIEEP(2014)13/FINAL, 19 Jan 2015.
- Mazur, E. (2010), "Outcome Performance Measures of Environmental Compliance Assurance: Current Practices, Constraints and Ways Forward", *OECD Environment Working Papers*, No. 18, OECD Publishing.⁸³

⁷⁴ http://ec.europa.eu/consumers/consumer_evidence/consumer_scoreboards/index_en.htm

⁷⁵ https://ec.europa.eu/commission/sites/beta-political/files/swd-energy-union-key-indicators_en.pdf

⁷⁶ http://ec.europa.eu/growth/industry/innovation/facts-figures/regional_en

⁷⁷ Work on-going with IEEP as a key contributor

⁷⁸ <https://www.umweltbundesamt.de/themen/uba-studie-bessere-durchsetzung-des-umweltrechts>

⁷⁹ <http://www.sdindex.org/>

⁸⁰ <http://www.oecd.org/env/country-reviews/>

⁸¹ <http://info.worldbank.org/governance/wgi/#home>

⁸² <http://www.sigmaweb.org/>

⁸³ <http://dx.doi.org/10.1787/5kmd9j75cf44-en>

- “Maastricht Recommendations on Promoting Effective Public Participation in Decision-making in Environmental Matters prepared under the Aarhus Convention”⁸⁴ prepared by UNECE
- Environmental Democracy Index⁸⁵
- Organization for Security and Co-operation in Europe, “Review of the implementation of the OSCE commitments relevant to the theme of the 24th Economic and Environmental Forum,” EEF.GAL/15/16, 7 September 2016.
- United Nations. Stec, S. and Casey-Lefkowitz, S. (2000) *The Aarhus Convention: An Implementation Guide*. New York and Geneva: The United Nations.
- UNEP Implementation Guidelines - Bali Guidelines on Rio Principle 10⁸⁶
- United Nations Economic Commission for Europe, “Review of the implementation of the OSCE commitments in the field of ‘Water governance in the OSCE area – increasing security and stability through co-operation,’” [EEF.IO/15/15](http://www.eea.europa.eu/EEF.IO/15/15), 8 September 2015
- UN Economic Commission for Europe, Water-Energy-Food-Ecosystems Nexus Assessment,⁸⁷ under the UNECE Water Convention
- UN Economic Commission for Europe, "Revised Governance Methodology for Assessing the Water-Food-Energy-Ecosystems Nexus," UN Doc. TFWFEEN/2017/5⁸⁸
- United Nations Economic Commission for Europe (2010) *Guidance Document on the Aarhus Convention Compliance Mechanism*. [report] Geneva: UNECE.
- United Nations Economic Commission for Europe Secretariat (2005) *Global and Regional Developments on Issues Related to Principle 10 of the Rio Declaration on Environment and Development*. [report] Geneva: United Nations Economic Commission for Europe.
- United Nations Economic Commission for Europe Secretariat of the Aarhus Convention (2006) *Your Right to a Healthy Environment*. [report] Geneva: United Nations Economic Commission for Europe and the United Nations Environment Programme.
- United Nations Environment Programme (UNEP) (2010) *Commentary to the guidelines for the development of national legislation on access to information, public participation and access to justice in environmental matters*. [report] UNEP.
- UNITAR Environmental Governance Program (2011) *Global Programme to Strengthen Capacities for Participatory Environmental Governance: Preparation of National Profiles*

⁸⁴ https://www.unece.org/fileadmin/DAM/env/pp/Publications/2015/1514364_E_web.pdf

⁸⁵ <http://www.environmentaldemocracyindex.org/>

⁸⁶ <http://wedocs.unep.org/bitstream/handle/20.500.11822/11201/UNEP%20MGSB-SGBS%20BALI%20GUIDELINES-Interactive.pdf?sequence=1&isAllowed=y>

⁸⁷ <http://www.unece.org/env/water/nexus>

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https://www.unece.org/fileadmin/DAM/env/water/meetings/Climate_Change/2017/9thTF_Water_and_Climate/Revised_Governance_METHODODOLOGY_Nexus_TF_2017-doc5_final.pdf

and Action Plans to Implement Principle 10 of the Rio Declaration. Information Notes. [report] Geneva: United Nations Institute for Training and Research (UNITAR).⁸⁹

- UNITAR Environmental Governance Program (2008) *Preparing a National Profile to Assess National Capacities for Implementation of Principle 10 of the Rio Declaration*. [report] Geneva: United Nations Institute for Training and Research (UNITAR).
- UNITAR National Profile to Assess National Capacities for Implementation of the Aarhus Convention⁹⁰
- United Nations, “Working Together: Integration, Institutions and the Sustainable Development Goals,” World Public Sector Report 2018
- World Justice Project (WJP) Rule of Law Index⁹¹
- World Development Report 2017⁹²

Relevant EU Directives, Strategies and Action Programmes (non-exhaustive list)

- Environmental Liability Directive (2004/35/CE)⁹³
- Public Access to Information Directive (2003/4/EC)⁹⁴
- Public Participation Directive (2003/35/EC)⁹⁵
- SEA Directive (2001/42/EC)⁹⁶
- EIA Directive (2014/52/EU)⁹⁷
- INSPIRE Directive (2007/2/EC)⁹⁸
- The 7th Environmental Action Programme⁹⁹
- 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 (COM(2017) 63 final, 3 February 2017)¹⁰⁰
- Annex, Guidance to Member States: Suggested actions on better environmental implementation, to the 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

⁸⁹ http://www.unitar.org/egp/sites/unitar.org.egp/files/p10_EN_guidance.doc_np.final_12.2008.pdf

⁹⁰ http://www.unitar.org/egp/sites/unitar.org.egp/files/aarhus_EN_guidance.doc_np.final_10.2004.pdf

⁹¹ <https://worldjusticeproject.org/our-work/wjp-rule-law-index/wjp-rule-law-index-2016>

⁹² <http://www.worldbank.org/en/publication/wdr2017>

⁹³ <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:02004L0035-20130718>

⁹⁴ <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32003L0004>

⁹⁵ <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32003L0035>

⁹⁶ <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32001L0042>

⁹⁷ <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32014L0052>

⁹⁸ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2007:108:0001:0014:en:PDF>

⁹⁹ <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32013D1386>

¹⁰⁰ http://ec.europa.eu/environment/eir/country-reports/index2_en.htm

challenges and how to combine efforts to deliver better results (SWD(2017) 33 – 60 final, 3 February 2017)¹⁰¹

Relevant multilateral agreements (non-exhaustive list):

- Aarhus Convention¹⁰²
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¹⁰¹ http://ec.europa.eu/environment/eir/country-reports/index2_en.htm

¹⁰² <http://www.unece.org/fileadmin/DAM/env/pp/documents/cep43e.pdf>

¹⁰³ <http://www.un.org/sustainabledevelopment/sustainable-development-goals/>

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Annex 3

Development of an Assessment Framework on environmental governance in EU Member States

Environmental governance assessments for the 28 Member States and country fiches

Note: The environmental governance assessments and the country fiches are made available at the European Commission website under the link:

http://ec.europa.eu/environment/environmental_governance/index_en.htm and at the

[CIRCABC](#)

Annex 4

Development of an Assessment Framework on environmental governance in EU Member States

Reports of stakeholder workshops

First Stakeholder Workshop

Date: 27 February 2018

**Location: Committee of the Regions, VM1,
Rue Van Maerlant 2, 1040 Brussels**

Setting the scene: welcome address, project context and aim explained, aim of the workshop

Joachim D'Eugenio (DG ENV) welcomed participants, and introduced the project, explaining that it would examine in detail cross-cutting environmental governance root causes behind issues with implementation of EU environmental law. The work conducted under the project will be used in the second round of the EIR. After the summer there would be a process of consultation on the draft conclusions draft report from this project and the draft country reports prepared under the EIR. Martin Nesbit briefly (IEEP) briefly presented the project structure and timeline. (See presentation files).

Plenary roundtable I: Assessment framework: scope, criteria and indicators

Stephen Stec (CEU) presented the scoping work carried out so far on the assessment framework. (See presentation files).

Questions, comments, and answers

Questions and comments in response to the presentations included:

How were the policy themes selected, and was noise not covered? A separate question addressed marine policy issues. *Response: the policy themes were from the annex to the Compliance Assurance Action Plan; noise was covered under air quality, and marine was covered under water policy.* It was also noted that it would be very challenging to cover the themes by June 2018.

Will climate policy be covered by the project? *Response: no – as with the EIR, the project focused on DG Environment policy responsibilities, although in many cases climate policy would be covered by same governance mechanisms in Member States.*

Compliance was covered under accountability: but compliance promotion was also an important issue which should be included.

Robust assessment of the problem areas would be useful, as well as knowing how the methodological choices have been made. While the project would not be looking specifically at compliance issues, it would need to overcome some nervousness from policy experts in Member States.

In addition to assessing stakeholder involvement, it would be important to provide information on how, and how well, stakeholder comments were taken into account in policy- and decision-making. *Response: We would consider how to include this point in the assessment framework.*

It was noted that the aim was to improve chapter 5 of the EIR. How would stakeholders be chosen for input, and how would the pilot assessments feed into the project? *Response: this is primarily a meta-assessment, using already existing data sources. There would be limited scope for stakeholder interviews, which would mainly provide contextual information. The pilot assessments would guide the development of the template for use across the 28 member states. Member States would, via members of the Compliance and Governance Forum whose first meeting would be on 13 March, have the opportunity to consider the draft EIR reports and the EU-wide summary and conclusions.*

Access to justice and transparency assessment should also look at how well information was used within administrations, including whether there were any legislative constraints.

The OECD water governance initiative was a positive example of a meta-assessment of governance; based on a self-assessment rather than a comparison.

The project should pay careful attention to national circumstances; each country has different needs, capacities, and contexts. *Response: Agreed as an important issue; there would be some scope for interviews, plus expert judgement of the country assessor, to provide the relevant contextual information.*

Plenary roundtable II: Assessment methods

Alexander Heichlinger (IEPA) presented the EU PACK project, setting out the methodology and emerging findings. (See presentation files).

Questions, comments, and answers:

It was noted that it would be useful to know who in Member State administrations had been contacted for the EU PACK project, so that the right connections could be made internally. It was also noted that the information in EU PACK was presented at an administration-wide level – could it be used to identify information at a policy and sectoral level, eg environment administrations? *Response: information available, eg on gender diversity, at Member State level was unlikely to be consistently available in the same format at environmental administration level; moreover, our project needed to reflect the fact that “environment” issues would have a different definition in different Member States.*

Break-out groups (split by dimensions)

Participants were allocated, based on preference, to break-out groups looking at either Participation, efficiency, and effectiveness (Groups A and C), or Transparency, accountability, and the rule of law (Group B).

Plenary roundtable III: Feedback from the working group rapporteurs

Group A Participation, efficiency, and effectiveness

On participation, the group noted the importance of good practices on how to mobilise and engage citizens, not simply provide them with a formal opportunity to participate: education, building of trust

in processes, the communication skills of the authorities, are all aspects which could be beneficial but are outside of the formal procedures

On effectiveness: building and joining up the capacities of authorities was important, as was coordination between different ministries, and between different administrative layers of government. It could be interesting to look at areas where effective local implementation required integration of environmental concerns into other areas of policy.

Scenario suggestions made included:

- A focus on the Bathing Water or Drinking Water Directives: how easy was it for citizens to find information on standards and whether they were being met?
- A test of how easy it was for citizens to get access to justice in specific situations; although noting a key issue which was that the position on paper might differ from the real world experience of court delays, costs, etc.
- A focus on air quality: if there were air quality failures in a particular area, how easy was it for the citizen to raise the issue? Would help be available from the local municipality, or from NGOs?

Group B Transparency, accountability, and the rule of law

It was important to focus on the implementation gap. Some argued that it was important to focus on the directives, and areas of EU competence, commenting that Member States were competent for justice systems and other aspects of Aarhus Convention implementation.

Incentivisation of public participation was challenging; and access of the public to information was an important element in this. However, better transparency - sharing of information, and good quality of information - between administrations and inspectorates was also important.

In identifying data sources, it would be important to ask Member State experts. Information from IMPEL would also be valuable - and a focus on the issues proposed by Member States to IMPEL. Infringement cases brought by the Commission, cases brought by citizens, and petitions, could also be a helpful source of data on governance.

On scenarios: it was felt that for air quality, key issues would be the legal standing of NGOs or citizens, including on the question of whether it was possible to challenge permits granted; costs potentially faced by those bringing cases; and the remedies available to domestic courts.

Group C Participation, Efficiency, Effectiveness

The Italian EIA website was noted as good example of enabling public participation; it provided comprehensive and well-organised documentation. It was important to have an enthusiastic champion to implement this sort of approach. Decision-makers in public administration were not always aware of the importance of good communication.

However, good websites were not sufficient. Other approaches could include list of targeted stakeholders within a specific working group allows to provide feedback; and ensuring that implementation committees involved stakeholders from other ministries and NGOs. It was also important to ensure that the time needed for public participation did not become an excuse for avoiding decisions. Local consultations with selected stakeholders could be useful, but this raised the question of how stakeholders were selected. And if wide participation is achieved, public

administrations need to be able to deal with a heterogeneity of inputs. Some issues were inevitably complex, and information asymmetries would create difficulties.

Accountability is linked to transparency: when decisions are not transparent. It is hard to hold the administrations accountable. Corruption, and perceptions of corruption, could be an obstacle to public participation, if it weakens trust in institutions.

OECD information on consumer participation could be a useful source of data. Good practice examples on coordination can come from other sectors than environment

Summary of the day and conclusions

Martin Nesbit and Joachim D'Eugenio briefly summarised the day's proceedings, noting that there had been a valuable level of input from participants. Material from the workshop, in the form of the presentations, and a summary of proceedings, would be shared with participants, as would a list of the participants (to enable conversations to continue).

Second Stakeholder Workshop

Date: 26-27 September

Location: The International Auditorium

Boulevard Roi Albert II, 5

1210 Bruxelles

Day 1

Setting the scene: welcome address, project context and workshop objectives

Robert Konrad (DG ENV) welcomed participants, and introduced the project situating it within the context of relevant other initiatives; he emphasised the links with the Environmental Implementation Review (EIR) process. Martin Nesbit (IEEP) introduced the objectives of the workshop and briefly outlined the project status and next steps.

Presentation of the structure of the draft Environmental Governance Assessments, methodology, and emerging findings

Tsvetelina Filipova (IEEP) presented the methodological approach for the development of the Environmental Governance Assessments (EGAs) and Aaron Best (Ecologic Institute) presented a proposed approach to visualisation of the data. Tsvetelina also presented emerging findings and potential good practice examples. (See presentation files).

Questions from participants addressed a wide range of issues including:

- **The cut- off date for information:** the consultants had agreed a cut-off date of June 30 with the Commission. However, it was clarified that this simply meant that all information publicly available before June 30 should be reflected in the reports; there was no constraint on referring to major relevant developments happening after this date, information on which could be included in the outlook and trends section, or in relevant thematic sections.
- **Consistency:** There were some concerns about the consistency between country assessments. It was confirmed that the EGAs will be further edited and formatted in a consistent manner, and will include an executive summary and country-specific visualisation (if a robust approach could be developed and agreed with the Commission). The need for transparency of the methodology was emphasised; as was the importance of recognising the different challenges posed for individual Member States (for example, smaller countries).
- **Deadline for comments:** There were concerns about the short deadline for comments, and the overlap with the timetable for comments on the EIR. It was agreed to extend the deadline for commenting on the EGAs to 5 November 2018. The European Commission clarified how information from the EGAs would feed in to the EIR process.

There was a general agreement on the complexity of the project. Issues around availability of information, and the risk of some publicly available information being outdated, were identified. The importance of transparency and communication were highlighted by participants. Concern was also expressed about reducing complex information to simple numerical scores

Plenary feedback exercise

A plenary poster session offered an additional opportunity to participants to share their initial reactions to the emerging findings, and to identify areas which they felt had not been sufficiently addressed. These are reflected in the feedback from the breakout sessions presented below.

Break-out groups 1: Transparency, Participation, Efficiency and Effectiveness

Presentations on each of the three dimensions summarised the main emerging findings and provided an overview of identified good practices. The presentations were made available to participants to facilitate the discussions. (See presentation files).

Participants were allocated to three break-out groups, each looking at all three of the dimensions, but each starting with a different one.

Feedback from the break-out groups, session 1

Transparency

The following topics were among those discussed:

- It is important that not only the availability of information is assessed, but also its usability and accessibility. Whether the information is interesting and useful for the public should also be assessed.
- Information which is a part of the official reporting to the European institutions is not necessarily the kind of information which is useful to the public; there was a risk that detailed reporting requirements diverted resources from presenting more useful information to the wider public.
- A variety of soft barriers to access information, such as time, format, language, access to internet, will be of relevance to be included in the assessment.
- For access to information in the areas of waste and industry, the type of information reviewed should be specified more clearly.
- There is a difference between access to data and access to information; and this should be made clear in the assessments.
- The benefits of aligning databases across Europe was discussed.
- The implications of the new General Data Protection Regulation (GDPR) for sharing information, especially in relation to permits and inspections, was highlighted, with concerns expressed about its potential to limit the information that could be made publicly available (this issue was also raised in discussions on compliance assurance and rule of law on the following day).
- The current fragmentation of information, both between sectors and levels of governance, was identified as an issue.
- The lack of agriculture and climate related information in the assessments was noted.
- The quality of information gathered should be assessed, as some Member States may have incomplete territorial coverage and especially measuring stations might be providing information that is not fully representative for a wide area.
- Reliance on self-reporting of facilities can be a problem.
- It was seen as surprising that mere legal compliance was being treated as a good practice.
- A single, accessible entry point for information should be seen as a best practice in this field.

Participation

The following topics were among those discussed:

- How to draw the bigger picture from the samples in the assessment; the risks of reading too much into the examples identified was discussed and acknowledged.
- It is challenging to quantify and assess public participation in EIA processes, and in particular to measure the quality of the participation.
- The differences and trade-offs between efficient and high quality participation was discussed.
- The impact of traditional attitudes and cultural background on public participation was highlighted.
- There was an emphasis on a large number of “soft barriers” to participation such as hidden information, costs, short time limits for consultations and limiting access to public meetings and bureaucratic procedures were discussed.

Efficiency and Effectiveness

The following topics were among those discussed:

- There was a general feeling that this dimension currently is rather diverse, and that there are links between several questions in this dimension and other dimensions, which needed to be drawn out.
- The value of specialized skills/units was highlighted, with a view that they do make a difference in environmental governance.
- The importance of the local level of government and actions was highlighted; this should better be integrated into the assessment of this dimension.
- A risk-based approach to enforcement was highlighted as a general good practice for efficient use of resources.

Day 2

Break-out groups 2: Rule of Law; Compliance Assurance

Tsvetelina Filipova and Stephen Stec presented the main emerging findings and provided an overview of identified good practices in the two remaining dimensions. (See presentation files). Participants were allocated to one of two break-out groups, each looking at both dimensions. Both of the groups also discussed more generally the priorities for the next steps of the project.

Feedback from the break-out groups, session 2

Rule of Law

The following topics were among those discussed:

- How the practical aspects related to access to justice in environmental matters can be mirrored in the assessments, to reflect better the actual situation. Barriers to access to justice were discussed, such as having access to the right information at the right time - for example, information on the scope for challenging decisions was communicated at the same time as the decisions themselves- and the costs faced by those seeking access to justice.
- The possibility to assess the potential links between the number of complaints received by the Commission and access to justice in the country concerned was discussed.

- Questions were raised about how the effectiveness of legal remedies could realistically be assessed.
- It was seen as surprising that legal training on environmental issues and building environmental expertise is not sufficiently on the capacity-building programs of the relevant state institutions, as noted in the presentations.
- It was noted that finding usable information on court cases can be very difficult even for experienced researchers; but the importance of citing court cases accurately, and of being precise in providing the underlying evidence for assessments, was highlighted.
- The particular importance of NGO standing to bring cases was highlighted.
- The importance of describing standing rules accurately to the public was emphasised.
- Public complaints should have clear follow-up reporting while bearing privacy concerns in mind.

Compliance Assurance

The following topics were among those discussed:

- The problem of bureaucratic fragmentation of complaints handling; a simple mechanism for assigning complaints to competent authorities should be regarded as a good practice.
- The challenge of mapping compliance promotion initiatives, and the means by which better cooperation between the inspector and operator could be achieved, was highlighted.
- The variation among cultural sensitivities related to citizens' complaints on compliance was raised.
- It was important to remember that complaints mechanisms might be different in different environmental subject areas.
- The assessment should not just look at minimum requirements, but more broadly assess the environmental governance was highlighted.
- Participants noted the importance of gathering information at local level, as some initiatives may not be highlighted at national level, but are important to an understanding of the full picture on compliance assurance.
- Participants highlighted possible problems of information sharing even within governments.
- As with the previous day's discussion on Transparency, concerns were raised on the impact of the General Data Protection Regulation on the use of information gathered by public authorities.
- There was an initial discussion on the differences in European Liability Directive (ELD) implementation.

Overall

In addition to discussions on the dimensions there were also a general reflection on the importance of section 4 (New or planned governance initiatives and outlook) and 5 (Best practice and Challenges), to give the possibility to reflect on the current development and trends in the Member States. The value of sharing best practices was also highlighted a number of times.

The following topics were discussed:

- The format of the assessments should be clear, with introductions to all sections, setting the context and outlining the basis on which the questions were chosen.
- Best practice are key and good practice from other, related fields could be included.
- There is a need for visualisations to be specific and well labelled.
- Over-interpretation should be avoided and the source for all answers should be defined.

- It was noted that the answers in the assessments reflect well the answers from different levels of governance, but that there is a need to better structure the assessments to give a fuller picture of environmental governance – ideally through the use of a diagrammatic presentation.

Good practices identified at the workshop

A number of initiatives or approaches were suggested at the workshop for inclusion as good practices in the EGAs:

Ireland - Network for Ireland's Environmental Compliance and Enforcement (NIECE); an informal cooperation network on compliance promotion, engagement, collaboration for better implementation of environmental legislation, governed by the NIECE steering committee with a secretariat hosted by the Environmental Protection Agency. <http://www.epa.ie/enforcement/pa/network/>

Belgium, Flanders- There is a coordination body between the inspection authorities, police and office of the attorney general.

Malta – All Maltese public consultation documents are available on consolidated website and all ministries in Malta use the same format of website.

Germany – The Federal Ministry for Environment and Federal Environmental Protection Agency have created a citizens guide on Aarhus convention – concretely focusing on what the public can do and what rights they have under the Aarhus convention.

Ireland: Tribunal held on corruption in planning decisions

Facilitation services by solving complaints (**Brussels** region)

Application of the Recommendation for Minimum Criteria for Environmental Inspections for all local authorities should be regarded as a good practice.

Ireland: A river catchment service unit was working working with farmers on compliance promotion in the field

Flanders government: a coordination body bringing together inspection authorities – police – office of attorney general

Service level agreements between different inspection authorities (**Brussels**)

In **Poland**, voivodship level funds for environmental protection encourage absorption of available funds (European and national) (PL)

Integrated energy permitting (**Flanders**)

Less satisfactory approaches were also identified, including:

- the levying of fees for participation in decision-making or consultative processes;
- threats of additional costs for access to information;
- Inadequate information on access rights for environmental information on many public authority websites.

Feedback on visualisation of results

Concrete feedback on the proposed visualisations was compiled including:

- The proposed visualisations could be useful. Overall, the feedback on the badges and maps was positive. Participants generally understood the need for having an overview and interpretation of this extensive text-heavy review.
- However, there was a need for context and caveats. There was concern about the underlying data not being robust enough as well as scepticism about scoring.

- Multiple entry points are likely. People may spend little time to understand the big picture. They may look only at visualisations or only at one report. The scope for misinterpretation should therefore be addressed.
- Visualisation could cover other aspects also. The project itself and its methodology could perhaps be clarified via visualisation.

Panel discussion and final plenary discussion

The panellists, Liam Cashman (DG ENV, European Commission), Attracta Uí Bhroin (An Taisce, Ireland), Silvija Nora Kalniņš (Ministry of Environmental Protection and Regional Development, Latvia) and Stephen Stec, shared their impressions, ideas and conclusions stemming from the two days of the workshop. The panel was followed by a discussion about conclusions and next steps. The main conclusions from the panel and subsequent discussion are captured below:

- This is a good opportunity for Member States to get feedback on the situation of environmental governance in their country.
- It was noted that the Member States value the opportunity for commenting as well as the possibility to share best practice.
- This workshop was generally seen as a very worthwhile exercise enabling concerns about and recommendations for the process to be discussed in an open-minded way.
- The general presentation and level of confidence on the assessments was discussed and the importance of labelling the findings and conclusions to the appropriate level was agreed on.
- The importance of visualisation was stressed, as well as a need for accurate and readable executive summaries for each of the Member States.
- The importance of ensuring accurate communication from this project was stressed.

In response to questions about how they should stakeholders and Member States should offer comments on the draft EGAs, and recognising the time-consuming nature of reviewing the documents, it was suggested that those offering comments should:

- flag possible mistakes or inaccuracies, providing specific references or evidences,
- address gaps in information, by providing links to relevant sources which the researchers might not have come across,
- add brief clarifications where necessary,
- note cases where information is compiled by the authorities but for certain reasons is not made available to the public,
- advise on relevant national case law,
- provide additional good practice examples in brief, including relevant links for further information (in the national language).

Conclusions

Martin Nesbit briefly summarised the workshops proceedings, noting that the project team had greatly valued the level of input from participants. Material from the workshop, in the form of the presentations, and a summary of proceedings, would be shared with participants, as would a list of the participants (to enable conversations to continue).

Third Stakeholder Workshop

Date: 24 January 2019

Location: The International Auditorium

Boulevard Roi Albert II, 5, 1210 Bruxelles

Setting the scene: welcome address, project context and workshop objectives

Aurel Ciobanu-Dordea (Director, DG ENV Dir E-Implementation and Support to Member States) welcomed participants, and introduced the project, situating it within the context of relevant other initiatives; he emphasised the links with the Environmental Implementation Review (EIR) process and outlined some possible future steps for continuing the work with assessing the Environmental Governance in the Member States.

Mr Ciobanu-Dordea noted that this project was launched over a year ago and is now reaching its final stages, scheduled to end in late February, emphasising that this workshop is a last chance to gather feedback and views. He also reminded the participants the project aims to develop a framework for the assessment of environmental governance in EU Member States. This assessment framework is intended to serve various **purposes**:

- To feed into the Commission's **Environmental Implementation Review**. The first EIR was published in 2017 and the second one is expected in spring this year. Thanks to this project, the Commission had been able to strengthen the assessment of how environmental governance functions in MS. The evidence gathered as part of the project was used to draft Section 5 ("Strengthening of environmental governance") of the upcoming 2019 EIR reports.
- To develop a more solid knowledge basis on how MS perform in the area of environmental governance. This will underpin **future initiatives** by the Commission, and also links to **ongoing initiatives** such as the **Environmental Compliance Assurance Action Plan** which was launched in 2017. The project has been followed by the related Member States Forum (lastly at the meeting on 7 December) and in Stakeholders meetings.

Mr Ciobanu-Dordea recognised that **participation of stakeholders** (including MS, environmental NGOs and business representatives) has been very important to develop the methodology and improve the quality of the work, during the course of the project. Many **useful comments** had been received, and the European Commission was pleased with the high participation and interest expressed in the project.

Mr Ciobanu-Dordea highlighted that the reflections from this workshop will feed into DG ENV's preparation of the next Compliance and Governance Forum on 14 May 2019. EC intends to discuss these issues at the Forum with the aim of including any follow up in the future work programme (2020/2021) that is developed by the Forum. He also mentioned that a session on the project will be held in **Green Week**, on 16 May in Brussels; this will be an opportunity to present the approach and findings emerging from the project to a wider audience.

Martin Nesbit (IEEP) introduced the objectives of the workshop and briefly outlined the project status and final steps.

Project context, methodological approach, state of progress, finalisation timeline

Martin Nesbit (IEEP) presented the methodological approach for the development of the Environmental Governance Assessments (EGAs). (See presentation files).

Questions and comments from participants addressed issues including:

- **Assessing the impact of environmental policy:** It was an important element of environmental governance that authorities had mechanisms for evaluation of policy impacts on environmental objectives – this should be included under the “efficiency and effectiveness” dimension.
- **Improved compliance through fees and fines:** Had the study looked at the effectiveness of penalties, including fines, for non-compliance? It was noted that the issue was not fully addressed in the project. The Commission observed that suggestions for additional questions would helpfully feed into the reflection on the follow up to the project.

Presentation of the structure and the key findings of the draft final report, including good practice examples

Tsvetelina Filipova (IEEP), Thorfinn Stainforth (IEEP) and Johanna Nyman (IEEP) presented the transversal findings from the project, for each of the five dimensions. (See presentations file). After the presentation of each dimension there was a short Q&A session and the following aspects were raised:

Rule of Law and Compliance Assurance

- There were concerns expressed regarding the difficulties with making an accurate assessment in the Rule of Law dimension, because the **parameters assessed are evolving so rapidly**. Examples were given in relation to Belgium, where there in the past months have been a number of rulings in relation to the legal standing of individuals and NGOs.
- It was also highlighted that the **assessment of enforcement cases** per capita is currently lacking and that this could bring an added value to the project.
- It was suggested that it would be good to analyse what actually happens when a case is in court, meaning the means and practical procedures of the courts in relation to environmental matters, and how this affects access to justice.

Transparency and Participation

- There was a discussion about **how to assess the evolution towards an evidence-based environmental governance and administration**; Commission and the project team confirmed that the final report would provide an explanation of why specific issues and questions had been addressed.
- There was a clarifying question in relation **to how to identify and define good practice in the final report**. All of the good practices in the final report should be presented with hyperlinks, if possible.
- Some concern was raised about information in the presentation that appeared out of date (linked to data from a 2016 report on INSPIRE); it was confirmed that presentation of results should make clear the date of the information relied on.

Effectiveness & Efficiency

- Questions were asked about how to measure **cost efficiency and effectiveness** in a general way for environmental administration. Issues which could be considered in future assessments included the administrative burden of implementation, compared to a (non-monetised) assessment of benefits.
- This dimension, was not as traditional or easily defined as some of the others in this project. It was mentioned that these are areas which have often not been measured as concretely as others, and **therefore potentially very useful in discussions** around future policy initiatives. This dimension may provide more concrete evidence about burdens on and capabilities of local, regional, national administrations and about the benefits and costs of different approaches to environmental governance.
- Participants noted the challenge around to the ways to **involve regional authorities** in the project. The latter may be critical players, especially in federal or devolved Member States. However, a balance is needed in terms of feasibility for the research project, and it may be that, in some cases, an overview of the national situation is the best that can practically be provided.
- Several participants expressed the view that the **results in the final report should be presented in a nuanced and balanced manner**.
- Participants advised to consider including criteria on existing rules for benefit estimation (ex-ante) and evaluation of regulatory target achievement (ex-post) regarding environmental regulation¹.

Discussion on the future of environmental governance assessments

Martin Nesbit (IEEP) presented ideas on the future of the environmental governance assessments emerging from the work. (See presentations file).

There were a number of questions and comments, and the main points are summarised below:

- On the **future of the Environmental Governance Assessment work**, the European Commission highlighted that the project was a positive first step in establishing a framework for assessing the environmental governance in Member States. How this will be taken forward is to be decided at a later stage.
- There were suggestions to **expand the assessments into marine governance** in any future iterations, as well as to focus on the **quality of the information** and on the effectiveness of penalties in terms of compliance assurance.
- Some participants felt that this exercise should **not focus on comparing Member States against each other**, but should have a clear focus on outlining the nature of environmental governance in the Member States. Comparison should be used as an indicator of possible areas for further investigation.
- The EGAs have an inherent **tension between delving into the specific details of one Member State vs. the production of comparable conclusions**. There was some discussion around the emphasis placed on the two approaches. This project tries to blend the two, using multi-criteria analysis as a framework for drawing some conclusions out of the vast amount of qualitative and quantitative research.

¹ German UBA- guideline example: <<https://www.umweltbundesamt.de/publikationen/methodological-convention-30-for-the-assessment-of>> on evaluation of benefits and a link to an ex post evaluation on associational standing <<https://www.umweltbundesamt.de/publikationen/evaluation-von-gebrauch-wirkung-der>>

- It was also shared that the **regional dimension** should be clear throughout this process.
- The **importance of good practice** was highlighted.
- Some participants highlighted the need to use more **offline sources** to present a fuller picture.
- There was a general agreement about the importance of the final communication of the conclusions and approach of the project online and in the final report. This communication should be fine-tuned, precise and not too generalised in order to convey the aims of the research and avoid misunderstanding of the approach or nuances.

Presentation of the scoring and rating approach

Martin Nesbit (IEEP) and Tsvetelina Filipova (IEEP) presented the scoring and rating approach and there was a short question and answer session.

- There was a discussion about the **scientific robustness of the approach**. EC highlighted that the intention with the scoring is not to have an absolutely comprehensive and scientifically accurate assessment of every single criterion, but rather to have a multi-criteria analysis, the judgement of a network of experts who can evaluate the situation and present it as the beginning of an analysis.
- The methodology need to be set out in the final report, and it was **important to document** why certain questions were included in or excluded from the exercise.
- The importance of **visualisation and communication** was highlighted. The possibility for misinterpretation or misuse was high, so very clear framing and presentation is necessary. Some participants thought that good practice should be incorporated into the visual presentation if possible.

The participants were divided into three breakout groups that went through an exercise of scoring 5 questions, with, for each question, 5 anonymised Member State answers. The results were compared with the scoring done by the core team and presented and discussed with all the workshop participants.

Points arising from the group discussions:

- If MS are not aware of the categorisation criteria and indicators they may not provide the necessary information, leading to difficulties in categorising accurately.
- It should always be made clear what the aim of a question is, so as to more easily score and research for it.
- The wide variety of type and quality of information provided can make it hard to score fairly.
- The complexity of information sometimes provided in the EGAs can make it hard to categorise the answers.
- Categorisation process may be clear internally, yet unclear externally, leading to misinterpretation of results.
- Categoriser must be aware of their own biases and those of the researcher, as well as the tone of the text, and should focus on the facts available.
- Differing legal terminology and bases in different MS can lead to problems of interpretation.
- Contextual information from other questions. What role should it play in scoring an individual question?
- Complicated questions, particularly those with several parts, can lead to problems of interpretation.
- In certain questions (3.4.1 Q2 for example), it is not always clear that a higher score would

mean better environmental integrity, so we need to be careful in being too literal in interpreting scores.

- Emphasis should be higher on the degree of effectiveness of a policy, and the actual state of implementation.
- There may be good reasons for the way MS treat a topic that cannot be captured in the narrow scope of the questions (for example privacy or security issues).
- More emphasis should be placed on non-digital service delivery, as this is still an important factor.

Concluding session

Martin Nesbit briefly summarised the workshop's proceedings, noting that the project team had greatly valued the level of input from participants and the comments from Member States and civil society which helped to improve the comprehensiveness and quality of the reports.

Joachim D'Eugenio (DG ENV) shared the next steps on publication of the final deliverables and upcoming events related to the Environmental Governance Assessments including:

1. The Member States governance assessments (country reports) will be finalized by the project team, and signed off by the Commission.
2. The governance assessments will be shared with Member States before publication through the CIRCABC. Relevant information and links will be sent to all MS and stakeholders.
3. Factual errors should be flagged, but changes will not be made. If a Member State has certain reservations about the content of the report, it will be possible to deliver a short parallel opinion which will be published along the governance assessment.
4. Final deliverables include a final report which will contain, inter alia, the overall project findings at EU level, as well as a number of more detailed deliverables including the country environmental governance assessment reports.
5. The final publication is expected to take place in late March or April, roughly concurrent with or just after the Environmental Implementation Review. Mr. D'Eugenio highlighted that the work on governance will continue and that this area will be addressed through a work programme, to be decided later in the year. Discussion will take place in the Environmental Compliance and Governance Forum Meeting on 14 May.
6. The governance assessments and the project final report will be launched on May 16 in Brussels during the Green Week.

Material from the workshop, in the form of the presentations, and a summary of proceedings, will be shared with participants, as a list of the participants (to enable conversations to continue).

Note: Workshop presentations are available on a [dedicated CIRCABC page](#)

Annex 5

Development of an Assessment Framework on environmental governance in EU Member States

Criteria for categorisation of Member States performance

Methodological approach to categorisation of the findings of the Environmental Governance Assessments for the Member States

In order to help in identifying patterns of approaches to environmental governance, and to compare performance between Member States in broad terms, the project developed an approach to categorisation of performance in relation to individual questions, and, in order to understand performance for each Member State in respect of each dimension, assigning a simple numerical value to categories of performance on the basis of the data gathered on individual questions.

This approach allows us to build a transparent summary index of questions to be assessed and rated for all the Member States in a comparable manner, which in turn allows a simple visualisation of the results of the Environmental Governance Assessments (EGAs). The summary index was developed on the basis of the five dimensions used in the assessment: Transparency, Participation, Access to Justice, Compliance Assurance and Accountability and Effectiveness and Efficiency. The categorisations generated for each individual question are sensitive to differences in the quality of the information provided in each answer, and to the difficulty inherent in applying simple criteria to complex governance issues. However, the intention was to build a robust and comparable picture of performance at the level of the dimensions, which would be easier to communicate than the analytical, comprehensive and text-based EGAs.

A first stage in this process was to identify which questions had answers which were capable of being categorised in a way which would enable a simple numerical score to be applied. Thus, the starting point for designing the methodology was to assess all the questions included in the assessment and answer the following questions:

- a) Is the question quantifiable?
- b) Is the question relevant for a score on that specific dimension?
- c) Is there comparable answer to the questions across all Member States?

The questions that fulfilled all criteria were included into the scoring template of their corresponding dimensions. There were also a couple of cases where questions from one dimension was assessed relevant also for the scoring of another dimension.

The range for the categorisation was agreed to be 0, 1 and 2, with 0 being the lowest and 2 the highest score.

- 0-** generally indicating that the answer to the question is negative or that the issue is not properly addressed in the Member State,
- 1-** indicating some initial progress but that there are some unsatisfactory elements and,
- 2-** indicating that the answer is generally positive with no major identified issues or negative elements.

For Member States where information was not found in relation to a question, the answer was marked as “Not Available” (NA).

A set of indicators was devised for each question/answer, as shown in the second column of the tables below. The governance assessment answers were reviewed against these indicators for each Member State. In order to ensure consistency of assessment and a degree of comparability, the same reviewers assessed and rated the answers of the same questions for all the Member States. Each Member State was given a score between 0-2 for each rated question. To calculate the final score for each of the dimensions, all the scores were weighted according to the percentage weighting allocated to the question, then the scores were added together and divided by 10, so the final scores range between 0-2.

Each question was given a weighting (between 5%-25%), based on an expert judgement of the importance of its subject-matter to the dimension, to determine its level of influence on the total score for the dimension.

The questions feeding into the final dimension score as well as the scoring criteria for each question are outlined in the tables below.

The nature and breadth of the research exercise is broad, including numerous areas of environmental governance and a wide variety of questions. The methodology outlined here should thus not be interpreted or treated as a detailed report card for, and judgement on, each Member State in respect of each question assessed, but as a means of providing a broad comparison between Member States in respect of each dimension. This in turn can help in identifying areas where performance appears to be less strong, and where individual Member States might therefore wish to consider good practices identified in other Member States. It was also a means to make expert judgements more comparable and transparent, given the high number of individual experts involved in the study and the many qualitative assessment elements.

In order to provide greater transparency, and seek stakeholder feedback on the methodological approach developed for the categorisation of the findings, an in-depth discussion and interactive exercise was included in the third stakeholder workshop of the project¹. The workshop was attended by participants from 18 Member States, as well as a number of representatives from NGOs, industry and academia. The participants were divided into three breakout groups that went through an exercise of scoring five questions, with, for each question, five anonymised Member State answers. The results were compared with the scoring done by the core team and presented and discussed with all the workshop participants. The main reflections from the exercise were that the wide variety of type and quality of information provided in the assessments can make it hard to score consistently. Moreover, some of the questions might be difficult to score because of the nature of that question; in some cases, the exercise revealed that the question could have been drafted more precisely to limit the risk of different interpretations. Nevertheless, there was generally a good coherence between the scoring done by the participants and the core team. At the same time, there was consensus that the methodology was capable of further development and validation if such an assessment were to be repeated.

¹ Third project workshop on 24 January 2019 in Brussels (see workshop summary report in Annex 4).

The summary index

Dimension 3.1 Transparency

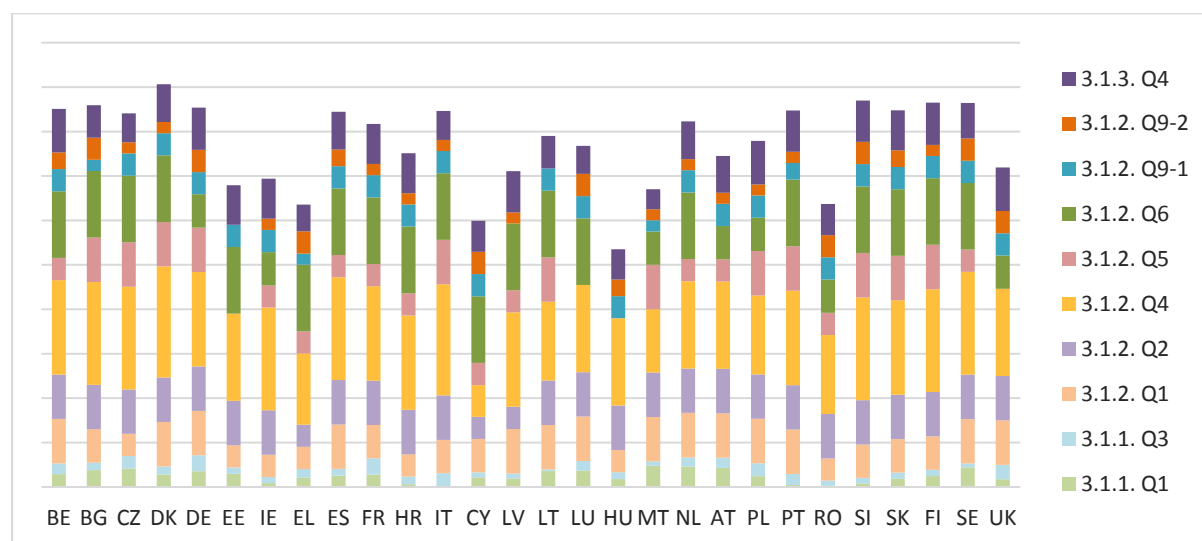


Figure A5-1: Data underpinning map on in section 3.1.6 of the final report. Graphical representation of weighted scores for all Member States (in protocol order)² for Transparency. Colours and number codes are linked to the individual assessment questions (see below).

Question	Indicators and proposed scoring for the answer	Weight %
3.1.1 Q1) What is the share of spatial datasets falling under the INSPIRE directive which MS have made available through view and download?	Percentage of the share of spatial datasets falling under the INSPIRE directive which MS have made available; % for viewing/100 + % for download/100 = score out of 2	5.00%
3.1.1 Q3) What is the level of maturity of Copernicus uptake in the assessed Member State?	Level of maturity of Copernicus uptake; Score: Calculated the average points attributed to the relevant Member State for: start-up initiatives, events, promotional activities, networks, user feedback, training & education, funding instruments, data access, and contact point). Score gives an average x/5. The average to be *0.4 in order to adapt to scoring scale and then be rounded off to full figures	5.00%
3.1.2 Q1) What is the status (well advanced/started/falling behind) and trend (positive/neutral/negative) of 'data sharing without the obstacles' under INSPIRE directive implementation?	Status and trends of data sharing without the obstacles; Score: Status: Falling behind - 0, Started - 1, Well advanced - 2; Trends: Negative - 0, Neutral - 1, Positive - 2 Status and trends added together and divided by 2	10.00%

² See the explanation available on the [Eurostat website](#)

3.1.2 Q2) How is access to environmental information guaranteed in legal provisions (at national, and where relevant at regional and local levels)?	Access to information legal guarantees; 0 - legal guarantees incomplete, with some sectors not covered; 1 - generally clear legal guarantee, covering all sectors; 2 - legal provisions require proactive dissemination of information across all environmental policy sectors	10.00%
3.1.2 Q4) To what extent is environmental data readily accessible to the public (per thematic area)?	Extent to which information on specific environmental sectors is readily available to the public. Scores for all the 7 sub-areas (air, nature, water, chemicals, industrial emissions, waste and cross-cutting environmental issues) can be found in the table in the Environment Governance Assessment (EGA). 0 - not possible to make assessment 1 - limited extent, information available for some of the sectors or partially available 2 - good extent These are added together and then divided by 7	25.00%
3.1.2 Q5) Does the Member State maintain public databases with detailed information on projects requiring EIA? Does this database contain technical background and documentation to facilitate detailed public analysis of the projects?	Availability of public databases for EIA/SEA: Scoring for a combination of the two questions 0 - not available 1 - available, but not in one place / or not easily accessible / or the technical background and documentation is not available / or time limited 2 - available, easily accessible including technical documentation	10.00%
3.1.2 Q6) Is the provision of environmental information free of charge or are fees applied? If so, are fees applied in all cases and for all categories of user?	Availability and level of the fees for receipt of information upon information requests: The first part of question was scored 0 - expense presents a barrier to access in a number of policy areas 1 - some costs applied, but limited or in isolated areas 2 - no costs apart from material costs for printing etc.	15.00%
3.1.2 Q9-1) Scenario 1 - Air Quality	Scenario 1: Score of two questions (Q3 & Q5) in the table for Scenario 1, divided by 2: Q3 Score: 0 - no data 1 - Data is made available with delay or not all major pollutants are covered, or some relevant information is not included 2 - accurate timely data is made available live or updated hourly; Q5 Score: 0 - No information is made available 1 - Data is available, but may lack explanation, visuals, or is overly technical or difficult to interpret in some way 2 - The data is explained in easy language, there are visuals and maps or it is also possible to listen to the website.	5.00%
3.1.2 Q9-2) Scenario 2 - River Basin Management Plans	Scenario 2: Score of two questions (Q4 & Q6) in the table for Scenario 2, divided by 2 Q4 Score: 0 - Summary is not available,	5.00%

	1 - Summary of key points is available but hard to access or at a different access point than other information 2 - Summary of key points is clearly accessible Q6 Score: 0 - no summary is available 1 – Summary of stakeholder feedback without information on how it was addressed 2 - Summary of stakeholder feedback, including information on how it was taken on board	
3.1.3 4) What was the timeliness and quality of data reported to EIONET ³ in 2016?	(EIONET 2016 Score*2)/100 gives a score out of 2	10.00%

³ EEA EIONET (European Information and Observation Network of the European Environment Agency): <https://www.eionet.europa.eu/>

Dimension 3.2 Participation

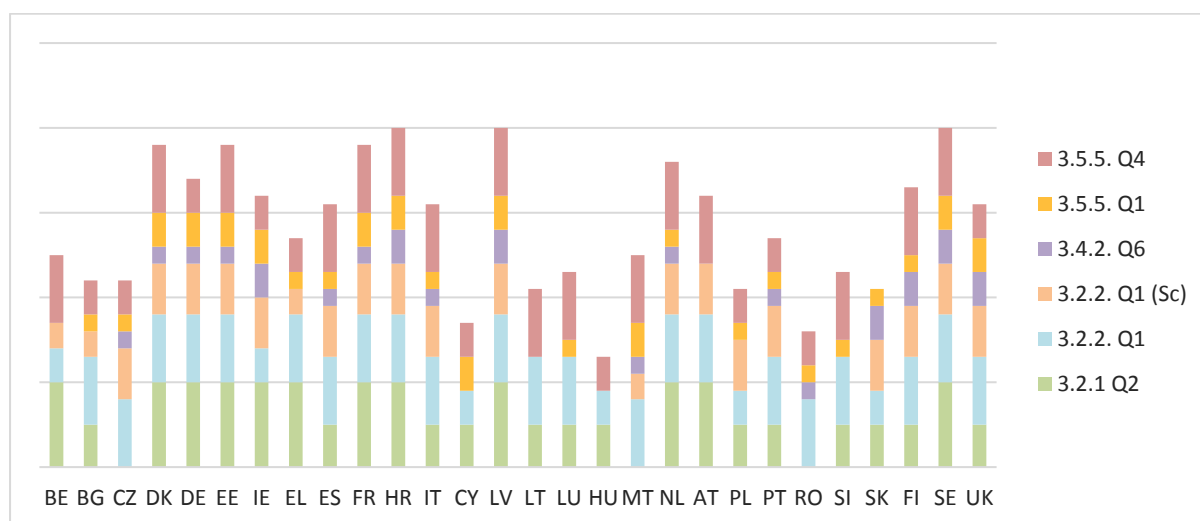


Figure A5-2: Data underpinning map in section 3.2.6 of the final report. Graphical representation of weighted scores for all Member States in protocol order for Participation. Colours and number codes are linked to the individual assessment questions (see below).

Question	Indicators and proposed scoring for the answer	Weight %
3.2.1 Q2) In addition to legal requirements, does the assessed Member State further facilitate public engagement in environmental policymaking through non-financial means (for example, through informal consultation mechanisms, public fora, etc) and if so how?	Availability and level of targeted facilitation of public engagement: 0 - No additional facilitation of public participation 1 - To some extent, including one-off initiatives 2 - Active and comprehensive facilitation of engagement	25.00%
3.2.2 Q1) What is the level of public participation in EIA procedures?	Extent to which participation in Environment Impact Assessment (EIA) public hearing and submission of written opinion is open to all interested parties: 0 - There are conditions on participation which present a barrier 1 - Certain conditions are to be applied which do not necessarily present a barrier (presence of certain conditions including prove of interest, NGO status, resident of an area, payment of fees etc.) 2 - Completely open to all	20.00%
3.2.2 Q1) Scenario, sub question 1, The level of public participation in the EIA process, (written responses, comments and attendance)	Availability of quantitative data on the level of public participation in the EIA in scenario: 0 – No data or information is available 1 - Information and data is available to a some extent 2 - Statistics and data on participation is available;	15.00%
3.4.2 Q6) Do public authorities encourage and make use of submissions of data on environmental issues by member of the public?	Easy access to online information on submission of complains on maladministration: 0 - No information is available 1 - Some information is available, but it is not easy to locate or access	10.00%

	2 - Easily accessible information on how/where to make environmental complaints	
3.5.5 Q1) To what extent do environmental administrations adopt and use electronic services, and enable the public or regulated entities to interact with them online?	<p>Use of electronic services by environmental administration:</p> <p>0 – No electronic services are used</p> <p>1 – Electronic services are used to some extent and for some forms of interactions</p> <p>2 – Yes there are electronic services in use for a majority of or all interactions</p>	10.00%
3.5.5 Q4) Do government bodies dealing with the environment have clearly established mechanisms for consultation with relevant civil society organisations?	<p>Availability of mechanism for consultations with civil society:</p> <p>0 – No specific mechanisms in place</p> <p>1 – There are some mechanisms in place, but with gaps (eg. not for all issues)</p> <p>2 – Yes there are mechanisms, of a participatory nature, in place to facilitate consultation</p>	20.00%

Dimension 3.3 Access to justice

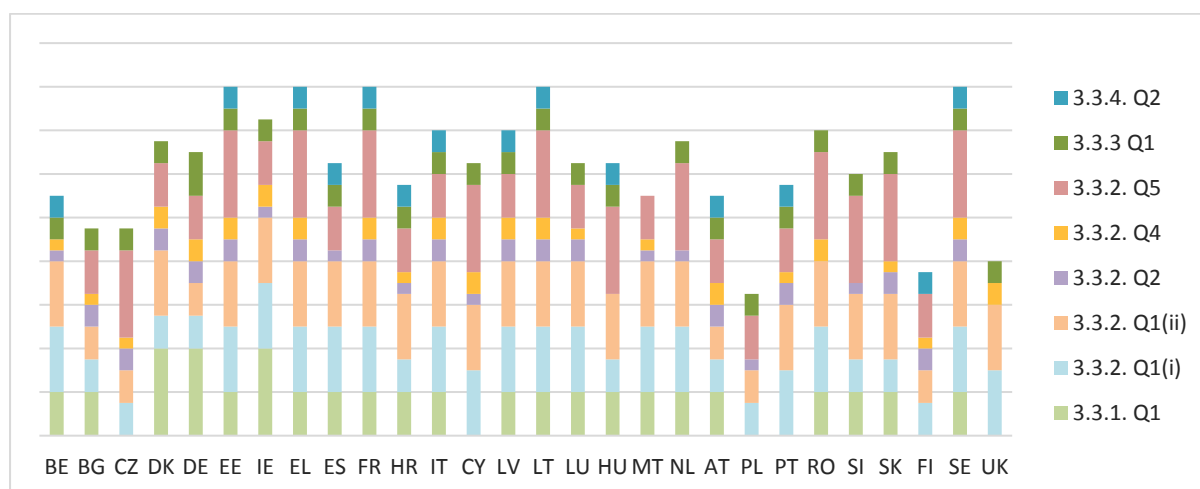


Figure A5-3: Data underpinning map in section 3.3.8 of the final report. Graphical representation of weighted scores for all Member States in protocol order for Access to Justice. Colours and number codes are linked to the individual assessment questions (see below).

Question	Indicators and proposed scoring for the answer	Weight %
3.3.1. Q1) also reflecting 2) 1) Is there transparent and user-friendly communication to members of the public about access to justice in environmental matters provided by the assessed Member State? (YES, NO, TO SOME EXTENT), please explain briefly the reasons behind your judgement. The assessment should cover whether information is clear, precise and up-to-date on legal standing rights, cost exposure and effective remedies for both individuals and environmental associations. 2) In your view, does the information you have described in the previous answer make it clear to members of the public how access to justice provisions would apply to each of the two scenarios in the box above?	Availability of transparent and user-friendly communication to the public: 0 – No availability of communication to the public 1 – Some communication 2 – Yes, there is user-friendly and transparent communication to the public	20.00%
3.3.2. Q1) (i) Bearing in mind the focus of this section of questions on the scope for individuals and associations to challenge decisions, acts and omissions of public authorities, does the legislation of the assessed Member State contain clear provisions which allow (a) an individual	Legal standing for individuals: 0 - Very restricted standing 1 - Formal requirements that may restrict standing in some cases 2 - Liberal standing	15.00%

3.3.2 Q1) (ii) an environmental association or non-governmental organization (NGO) to bring such a legal challenge in environmental matters, enabling a broad range of public interest bodies or individuals to bring cases?	Legal standing for NGOs: 0 - Very restricted standing 1 - Formal requirements that may restrict standing in some cases 2 - Liberal standing	15.00%
3.3.2 Q2) If the legislation of the Member State does not provide a clear right for individuals or environmental associations to bring legal challenges against public authorities on environmental issues (see question 1 above), what information is available on whether the courts in practice follow the case-law of the EU Court of Justice (CJEU) (for example, on legal standing related to air pollution and nature cases such as those described in the two scenarios)?	Legal standing for NGOs and individuals in practice: 0 - no evidence of case law granting NGOs or individuals in accordance with CJEU rulings 1 - some cases where standing has been granted in accordance with CJEU rulings, either for NGOs or individuals in either air pollution or nature cases, but with gaps 2 - case law granting legal standing for NGOs and individuals in both air pollution and nature cases (or legislation provides clear rights anyway).	5.00%
3.3.2 Q4) For each of the two hypothetical scenarios identified in the box above, what evidence is available on how the standing rules could be expected to be applied in practice? (ie restrictively, or broadly)? In particular, please draw on any similar cases which have been brought. Does the legislation of the assessed Member State contain provisions protecting a litigant, in particular an unsuccessful litigant from prohibitive costs?	Interpretation of legal standing for NGOs and individuals: 0 - Restrictive application in practice in both cases 1 - broad application of legal standing rules in one of the two scenarios, or for either NGOs or individuals but not both, or with prohibitive risks for unsuccessful litigants 2 – good evidence of broad application of legal standing for NGOs and individuals in both of the scenarios	5.00%
3.3.2 Q5) What steps has the Member State taken to implement the requirements of the Aarhus Convention on affordability of access to justice in environmental matters? What is the nature of the costs faced by parties in bringing such cases (including not just court fees, but also the potential costs of hiring legal advice, and the risk of having to pay for the other side's costs in the event of losing)?	Presence of barriers to access to justice associated with costs (court fees, compulsory lawyers' fees, expert fees, injunctive relief burden etc): 0 - the costs are high and present barrier to access to justice 1 - some costs presenting barriers, and policy measures to address the costs do not fully eliminate the risk of barriers 2 - low costs or costs do not present barriers due to mitigation measures	20.00%
3.3.3 Q1) If the public authority loses a case, what sorts of things can the Courts decide to do, or require public authorities to do, in order to put right the failure by the public authority ("remedies")? Examples can include preventing the authority from implementing its decision, requiring it to reconsider its decision and reach a fresh decision, requiring it to take action without specifying the action, or requiring it to take specific action.	Scoring for a combination of the three questions under 3.3.3; Presence of remedies and their effectiveness: 0 - Some basic remedies are not available or if available may not be effective due to specific barriers, such as uncertainty of costs, requirements of posting bond, etc. 1 - Basic remedies are available and effective, such as annulment of decisions and mandatory orders to authorities to achieve legal compliance. Injunctive relief is available. 2 - Remedies are available and effective, including (in addition to 1) automatic suspension of decisions pending review and injunctive relief, and there are no major obstacles to their use.	10.00%

3.3.4 2) To what extent does the assessed Member State prioritise activities to build and support the capacity of courts, tribunals, to implement and enforce environmental law in the context of the elements of judicial effectiveness, i.e.: independence, quality and efficiency?	<p>Level of prioritisation of capacity building on environmental law based on review of institutional training programmes:</p> <p>0 - no or rare inclusion of environmental topics</p> <p>1 - inclusion to some extent</p> <p>2 - good regular trainings and capacity building on environmental law</p>	10.00%
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Dimension 3.4 Compliance Assurance and Accountability

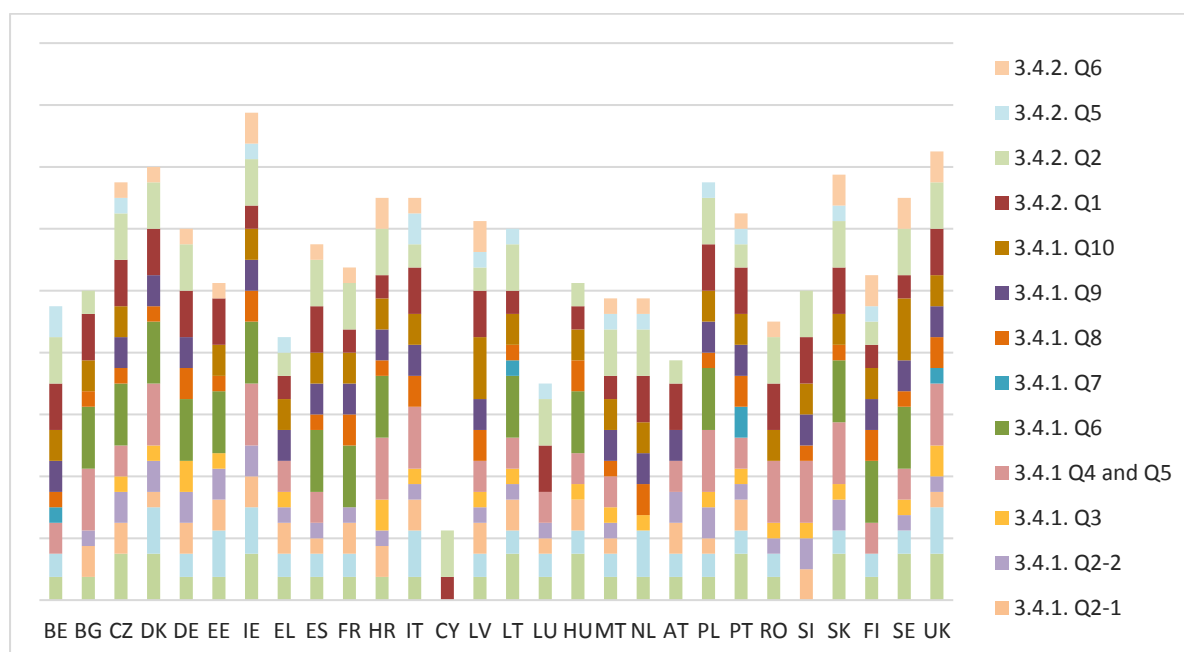


Figure A5-4: Data underpinning map in section 3.4.6 of the final report. Graphical representation of weighted scores for all Member States in protocol order for Compliance Assurance and Accountability. Colours and number codes are linked to the individual assessment questions (see below).

Question	Indicators and proposed scoring for the answer	Weight %
3.4.1 Q1) [First part of the question] How well does the Member State explain to economic operators how they should fulfil environmental obligations? The following obligations should be used when looking at this question: first , the obligations that farmers need to fulfil with regard to fertilizer use and manure storage in nitrate vulnerable zones under the Nitrates Directive; ...	Availability and quality of information to farmers on environmental obligations regarding Nitrates directive: 0 - no information 1 - some information, but scattered and/or difficult to interpret 2 - comprehensive and easily accessible information	7.50%
3.4.1 Q1) [Second part of the question] ... second , the obligations that landowners need to fulfil in Natura 2000 sites under the Birds Directive and the Habitats Directive	Availability and quality of information to farmers on environmental obligations regarding Natura 2000: 0 - no information 1 - some information, but scattered and/or difficult to interpret 2 - comprehensive and easily accessible information	7.50%
3.4.1 Q2) [First part of question: planning] For the inspections required under Article 23 of the Industrial Emissions Directive, what information (if any) does the Member State provide online about: planning of inspection, reports on the results of specific	Availability of online information on inspection planning: 0 - no information on planning 1 - intermediate information, i.e. plans not published but summarized or otherwise presented	5.00%

inspections and the number and range of complaints received by the inspection authorities	2 - planning Published and easily accessible	
3.4.1 Q2) [Second part of question: reports] For the inspections required under Article 23 of the Industrial Emissions Directive, what information (if any) does the Member State provide online about: planning of inspection, reports on the results of specific inspections and the number and range of complaints received by the inspection authorities	Availability of online information on reports on inspections and range of complains received by inspection authorities: 0 - no information on reports 1 - intermediate information, i.e. reports not published but summarized or otherwise presented 2 – reports Published and easily accessible	5.00%
3.4.1 Q3) Is earth observation and geo-spatial intelligence used for environmental compliance monitoring purposes? Particular reference could be made to use of these for monitoring illegal waste activities and illegal land-use changes affecting Natura 2000 sites. However, other examples would also be useful.	Use of geo-spatial data and earth observation for environmental compliance: 0 – no use of geo-spatial data and earth observation 1 - yes, but limited use 2- broad use of geo-spatial data and earth observation	5.00%
3.4.1 Q4) and Q5) Q4) Do the main bodies in charge of environmental inspections under the Industrial Emissions Directive publish their activity reports on an annual basis? Q5) If so, do the activity reports indicate the follow-up to detected non-compliance?	Availability of published activity reports and follow up on detected non-compliance: 0 – no published activity report and follow up 1 – yes activity report available, but no follow up indicated 2 - yes activity report available and follow up indicated in the activity report or in another publicly available report	10.00%
3.4.1 Q6) Are there published statistics on the prosecution of environmental crimes and their outcomes? Please provide available national statistics? Particular attention should be paid to statistics related to waste and wildlife crime.	Availability of published statistics on prosecution of environmental crime: 0 – no published statistics on prosecution of environmental crime 2 – yes, there are published statistics on prosecution of environmental crime	10.00%
3.4.1 Q7) Are statistics available on the follow-up to detected cross-compliance breaches related to the Nitrates Directive and the Habitats Directive?	Availability of statistics: 0 - no statistics available 1 - some statistics available, but incomplete and difficult to access 2 - yes, easily accessible statistics available	5.00%
3.4.1 Q8) For waste and wildlife crimes and breaches, has the Member State published any information referring to formal or informal co-operation arrangements between inspectors/wildlife officials, police and prosecutors for purpose of bringing successful prosecutions? In answering this question, account should be taken of any integrated systems in which one authority can itself carry out all the functions of investigating and prosecuting.	Availability of information on co-operation arrangements on environmental crimes: 0 - no information on co-operation available 1 - information on some informal cooperation 2 - clear information on formal and informal cooperation	5.00%
3.4.1 Q9) In how many IMPEL ⁴ peer reviews did the environmental compliance assurance authorities of the Member State	Participation in IMPEL: 0 -no participation, as either host or visitor	5.00%

⁴ European Union Network for the Implementation and Enforcement of Environmental Law (<https://www.impel.eu/tool-category/impel-review-initiative/>)

participate in, both, as a host and a visitor? What are the main emerging findings from peer reviews as host?	2 - participation in a peer review either as host or visitor	
3.4.1 Q10) Does the Member State organise systematic, regular training programmes for compliance assurance authorities to improve compliance with environmental law? What are the most common topics covered? In answering this question, the following categories of authority should be distinguished: (1) environmental inspectors implementing the inspection requirements of the Industrial Emissions Directive; (2) authorities responsible for compliance in Natura 2000 sites; (3) authorities responsible for compliance with the Nitrates Directive; (4) police and prosecutors responsible for investigating or prosecuting waste and/or wildlife crime.	Availability of systematic training programmes for compliance assurance authorities: 0 – no systematic training in place 1 - regular training in some areas of environmental law 2 - wide coverage of training programmes for compliance assurance authorities	10.00%
3.4.2 Q1) First dimension: How easy is it for a citizen to find out from online information to whom and how to submit a complaint about an environmental nuisance or environmental damage?	Easy access to online information on submission of complains on environmental nuisance: 0 - no information available 1 - some information or not easy to locate 2 - easily accessible information on how/where to make environmental complaints	7.50%
3.4.2 Q2) Second dimension: How easy is it for a citizen to find out from online information to whom and how to submit a complaint about alleged maladministration by an environmental authority? The following examples should be covered: alleged failure of an environmental administration to deal with a nuisance from a waste facility or industrial installation; alleged failure by an environmental authority to address damage to a Natura 2000 site.	Easy access to online information on submission of complains on maladministration: 0 - no information available 1 - some information or not easy to locate 2 - easily accessible information on how/where to make environmental complaints	7.50%
3.4.2 Q5) Are there public-awareness raising initiatives in place so that citizens are aware of the possibility to alert or inform the authorities about facts likely to cause environmental damage, or which seem non-compliant with environmental law provisions, or which otherwise help the authorities to fulfil their responsibilities?	Availability of public awareness initiative to facilitate the submission of citizens' alerts on environmental problems: 0 – no initiatives could be identified 1 - some initiative, but in isolated areas of policy only, or the use of information is unclear 2 - yes, systematic approach to awareness initiatives	5.00%
3.4.2 Q6) Do public authorities encourage and make use of submissions of data on environmental issues by member of the public? (citizen science)	Activities in encouraging submissions and their use: 0 – no 1 - some, but isolated policy issues, or use of data is unclear 2 - yes and clear how data is used	5.00%

Dimension 3.5 Effectiveness and Efficiency

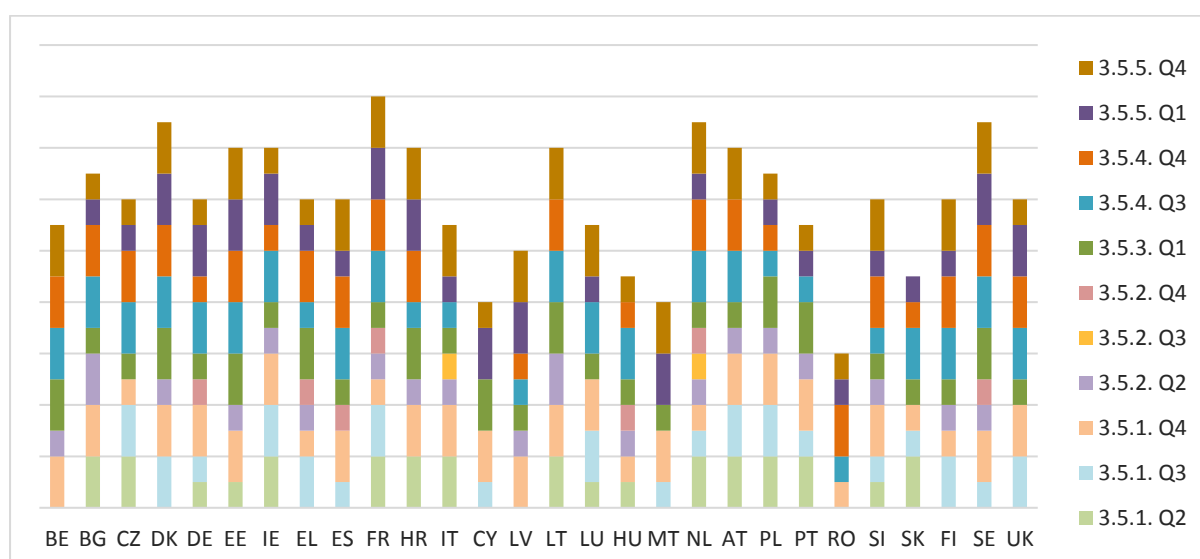


Figure A5-5: Data underpinning map in section 3.5.7 of the final report. Graphical representation of weighted scores for all Member States in protocol order for Effectiveness and Efficiency. Colours and number codes are linked to the individual assessment questions (see below).

Question	Indicators and proposed scoring for the answer	Weight %
3.5.1 Q2) Are there systems of earmarking of funds collected through fiscal and market based instruments to environmental protection in place?	Availability of system for funds earmarking for environmental activities; 0 – No such systems in place 1 – Some systems in place but not generalised earmarking or only in a couple of sectors 2 - Yes, there is widespread earmarking in a number of sectors	10.00%
3.5.1 Q3) What is the allocation of total funds for the theme 'Environmental protection and resource efficiency' by each Member State compared to total allocations for each EU fund (EAFRD, ERDF, CF, and EMFF) ⁵ for the 2014/2020 period?	The score is calculated for the funding for EAFRD only. Score is based on the percentage of the EAFRD funding going to theme Environmental protection and resource efficiency: 0 - < 20% 1 - 20-30% 2 - >30%	10.00%
3.5.1 Q4) How is green public procurement (GPP) supported in the assessed Member State?	Availability of facilitation of green public procurement: 0 - Nothing relating to GPP in place 1 - There are initial steps in place, 'some procurements entities have developed an internal strategy/policy', but no national strategy or policy in place or there is evidence that implementation is lacking 2 – There is a national strategy in place and no negative evidence about implementation	10.00%

⁵ Selected EU Structural and Investment Funds: EAFRD (European Agricultural Fund for Rural Development), ERDF (European Regional Development Fund), CF (Cohesion Fund) and EMFF (European Maritime and Fisheries Fund)

3.5.2 Q2) Are environmental issues and services included in any one-stop-shop mechanisms in the assessed Member State?	Availability of one-stop -shop and inclusion of environmental issues: 0 – No one-stop-shop or similar 1 - Yes, to some extent, there are attempts to have a central place to handle all environmental affairs for citizens 2 - Yes, central one-stop-shop for all citizen or business interfaces, or both	10.00%
3.5.2 Q3) Do customs authorities have dedicated environmental units?	Existence of dedicated environmental units: 0 – No 2 - Yes	5.00%
3.5.2 Q4) Do public prosecution services have dedicated environmental units?	Existence of dedicated environmental units: 0 - No, 2 - Yes	5.00%
3.5.3 Q1) Is there a mechanism for integrating the Sustainable Development Goals (SDG) into public policy making? What funds does the government allocate to the fulfilment of the SDG's (or other relevant horizontal objectives)?	Mechanisms and funding for SDG integration: 0 – No integration or funding in place 1 - Yes there is plan for integration and a structure in place, but no funding 2 - Yes there is a comprehensive and cross sectorial plan in place as well as funding for the implementation	10.00%
3.5.4 Q3) Does the MS require regulatory impact assessments to be produced when new policies are introduced?	Availability and use of the RIA for environmental policy development. First part of the question is assessed: 0 – No 2 - Yes	10.00%
3.5.4 Q4) Are environmental issues addressed in impact assessments for policies in other sectors, for example transport, energy, agriculture?	Addressing environmental issues in impact assessment of other policies: 0 – No, environmental issues are not addressed in the RIAs 1 - To some extent, but patchy implementation or coverage appears incomplete 2 – Yes, environmental issues are not addressed in the RIAs	10.00%
3.5.5 Q1) To what extent do environmental administrations adopt and use electronic services, and enable the public or regulated entities to interact with them online?	Use of electronic services by environmental administration: 0 – No electronic services are used 1 – Electronic services are used to some extent and for some forms of interactions 2 – Yes there are electronic services in use for a majority of or all interactions	10.00%
3.5.5 Q4) Do government bodies dealing with the environment have clearly established mechanisms for consultation with relevant civil society organisations?	Availability of mechanism for consultations with civil society: 0 – No specific mechanisms in place 1 – There are some mechanisms in place, but with gaps (eg. not for all issues) 2 – Yes there are mechanisms, of a participatory nature, in place to facilitate consultation	10.00%

Annex 6

Development of an Assessment Framework on environmental governance in EU Member States

Good practices identified

Methodological approach in the identification of good practices

A good practices section was included in the environmental governance assessment (EGA) template to give the researchers responsible for each country the opportunity to identify and highlight positive examples of governance initiatives, based on their findings and considering the governance context of the given Member State. We also encouraged Member States, when commenting on the EGAs in draft, to identify initiatives that they felt were good examples. Subsequently, these practices were assembled in a single document, and aligned with the scope of the governance dimensions and themes we studied in our assessment. At this stage some of the practices initially identified were taken out of the list, because they were not considered sufficiently positive in comparison with practice in other Member States. Others were added, based on the core team's analysis of all of the EGAs, which enabled some practices to be identified as being in advance of the generality of Member States.

The 120 good practices identified are shown below in order of Member State, and have in addition been categorised on the basis of the topics they address. These topics are arranged by dimension, but do not map to the 21 governance assessment themes. The table provided on the next page shows the distribution of good practice examples by topic and by Member States, enabling the reader to navigate within the list, and identify examples related to specific topics.

Each practice is numbered, and where possible a web link is included for quick reference to the original source in the text. The full list of selected good practices constitutes Annex 6.

It should be noted that the good practices are not based on a systematic assessment of Member State performance across the environmental governance assessments. In some cases, they were identified because the relevant country researchers were particularly impressed by an approach they came across in their research. In others, a practice was suggested for inclusion by a Member State, and assessed as being in advance of practice in other Member States or the practice may have been identified by the core team of reviewers when analysing the Member State's assessment or when preparing the final report. Good practices may also be related to issues not directly addressed by our questions, or by the criteria used for categorising Member State performance. Therefore, identification of an individual good practice in a particular area is not in itself indicative of strong Member State performance against the criteria we examined.

The identification of good practices in the report is aimed at providing illustrations of interesting, innovative and progressive approaches in addressing certain governance aspects. They are not intended to represent an exhaustive list of good practice; nor are they in all cases capable of direct replication in other Member States, due to the specific nature of the Member State's governance system.

Governance dimensions and good practices matrix	BE	BG	CZ	DK	DE	EE	IE	EL	ES	FR	HR	IT	CY	LV	LT	LU	HU	MT	NL	AT	PL	PT	RO	SI	SK	FI	SE	UK
Environmental governance structure																												
Simplicity of the governance structure													CY1														SE1	
Independent monitoring of policy development					DE1																							
TRANSPARENCY																												
User-friendly and up-to-date env.information and portals				DK1					ES1				CY2			LU1			NL1		PT1						SE2	
Good EIA/SEA/GIS databases					DE2	EE2			ES2			IT1														FI1		
Online Aarhus Convention information portals	BE1									FR3															SK3			
Uniform website structure and joint websites						EE1												MT2						SI1	SK1	FI2		
Transparency on information requests		BG1, 2																										
Access to information for people with special needs					DE3																							
Specialised environmental information agencies/institutions			CZ1				IE1				HR1													SI3	SK2			UK1.2
PARTICIPATION																												
Guidance and standards on good public participation										FR1	HR3									AT1								UK3
Good public participation approaches, facilitation				DK2	DE5							IT2				LU3		MT1	NL2				RO1	SI4		FI3		
E-participation						EE4					HR2											PT2						
Stakeholder involvement in legislative and policy development						EE5				FR2				LV1														
ACCESS TO JUSTICE																												
Practical information on access to justice and facilitation	BE2				DE6		IE3			FR4					LT3									SI5				UK4
Broad legal standing and relevant court practice							IE2	EL1						LV2	LT2							PT3						
Anti-corruption efforts															LT1						PL2				SK5			
Capacity building for the judiciary															LT4							PT4						
COMPLIANCE ASSURANCE AND ACCOUNTABILITY																												
Good information to operators and farmers on compliance		BG5		DK3													HU1					PT5						
Transparent and efficient inspections planning and reporting		BG4				EE7	IE4							LV3														
Geospatial data used for monitoring											HR4													SI2				
Complaints handling online applications and facilitation			CZ2		DE7			EL3		FR5				LV6					NL3	AT3	PL1		RO3		SK4			
Institutional cooperation and statistics on environmental crime												IT3		LV5		LU2										FI5		
Environmental ombudsman or commissioners								EL2					CY3							AT4								UK5
EFFECTIVENESS AND EFFICIENCY																												
Streamlining of EIA and permitting processes		BG3								FR6											AT8		PT6					
SDG implementation, indicators, proactive approaches	BE4				DE4																AT7							
One-stop-shop services and portals														LT5							AT2							
Information on and management of environmental funds						EE3															PL3							
Sustainable green public procurement	BE3																				AT6					FI6	SE4	
Citizen science						EE6																	RO2				SE3	
Regulatory impact assessment																										FI7		
E-governance and digitalisation											HR5			LV4							AT5					FI4		

Belgium (BE)

BE1: Online information point on implementation of the Aarhus convention

Belgium maintains an online information point¹ on implementation of the Aarhus convention, which holds a lot of relevant and easy to navigate information. Information by individual agencies on how to file complaints on the administration itself is well provided for.

BE2: Information on access to justice

The joint national portal 'www.aarhus.be', on behalf of all four competent government authorities in Belgium, which are hosted on the website of the Federal Public Service: Health, Food Chain Safety, and Environment, provides a dedicated page on access to justice in environmental matters² as well as a dedicated page on the different ways this access can be pursued³.

BE3: Ambitious green public procurement action

There are ambitious green public procurement action plans and supporting initiatives such as the dedicated funding programme for Flemish authorities. The Flemish Government has an ambition for 100% of its public procurement to be sustainable by 2020⁴. To achieve this, the Flemish Public Procurement Plan 2016-2020 was drawn up⁵.

BE4: Proactive approach on SDG implementation

The proactive approach by the Belgian federal government on SDG implementation and reporting has the potential to further boost the sense of shared direction among environmental governance objectives.

Bulgaria (BG)

BG1: Transparency towards environmental information request

Each head of an administrative authority in the executive branch of government publishes data on processed environmental information requests. Reports on all requests for access to environmental information are prepared on a six-month basis and are publicly accessible from the main website⁶ of the Ministry of Environment and Water (MoEW). The number of information requests submitted to MoEW and its structures, the number of satisfied and rejected requests is summarised in 6-month reports. Also the reasons for denials of information are included in the six-month reports.

BG2: High rate of satisfied environmental information requests

There is a high rate of positive response to requests for access to environmental information. A review of 2017 data on requests for access to environmental information submitted to the MoEW demonstrates that only 1.5% percent of the requests are rejected. As noted above, there is publicly

¹ Mise en œuvre de la Convention en Belgique, Federal Public Service Health, Food Chain Safety and Environment, <https://www.health.belgium.be/fr/environnement/aarhusbe/mise-en-oeuvre-de-la-convention-en-belgique>

² Public access to justice, FPS Health, Food chain and Environment, <https://www.health.belgium.be/nl/milieu/aarhusbe/de-burger-krijgt-toegang-tot-de-rechter>

³ Access to justice: which actions in which cases?, FPS Health, Food chain and Environment, <https://www.health.belgium.be/nl/milieu/aarhusbe/de-toegang-tot-de-rechter-welke-rechtsvordering-welke-gevallen>

⁴ Duurzame overheidsopdrachten, Vlaamse Overheid, <https://do.vlaanderen.be/duurzame-overheidsopdrachten>

⁵ Vlaamse Overheid (2016) Vlaams Plan Overheidsopdrachten, https://overheid.vlaanderen.be/sites/default/files/media/documenten/overheidsopdrachten/20160129_plan%20overheid%20opdrachten.pdf

⁶ MoEW access to information page: <http://www.moew.government.bg/bg/dostup-do-informaciya/obsta-informaciya/>

available statistical information about such requests and the way they were handled by the administration in the 6-month reports. The provision of environmental information is free of charge.

BG3: Efforts to integrate environmental assessments

The main development during recent years has been the integration of Natura 2000-appropriate assessment procedures (introduced in 2007), as well as coordination of Integrated Pollution Prevention and Control (IPPC) permitting processes (introduced in 2008) and integration of the Seveso process of chemical safety (introduced in 2015) in the EIA procedures into a single environmental ex-ante quality assurance system of development proposals, extensions or modifications. There is also a coordination mechanism in place for compliance of development proposals with objectives and measures in RBMPs and FRMPs in the context of Directives 2000/60/EC and Directives 2007/60/EC in EIA procedures.

BG4: Effective and transparent inspections building on a clear planning

Effective, integrated, and transparent inspections are carried out with well-functioning coordination between the responsible authorities and clear distinction of the functions and powers. The planning of inspections under a set of legal acts is made publicly available with a single entry to this information, thus easy to locate and review. The programme of inspections is developed on a quarterly basis. Approximately 60 per cent of the inspections are scheduled. The frequency of checks is based on risk assessment of the subjects under control. The Regional Inspectorates for Environment and Water publish monthly reports on their monitoring functions as well as many of the inspection reports themselves.

BG5: Information event about compliance obligations

In Bulgaria, the Territorial District Offices regularly organise information events for farmers and stakeholders, including topics related to Good Agricultural Practices, with a total of 235 events for the period 2016-2017, in which more than 6000 farmers took part.

Czech Republic (CZ)

CZ1: Specialised agency to support decision making processes on environment

A specialised agency (CENIA) has the mission of providing public administrations and the public with information on the environment and support for decision making processes. CENIA runs the ENVIHELP helpdesk⁷. Direct access is also ensured from the website of the Ministry of the Environment.

CZ2: Mobile application and a web-platform for compliance monitoring

The project “ZmapujTo.cz” offers compliance monitoring, mainly focused on reporting of illegal waste dumps, problems with local infrastructure (roads, pavements) as well as issues on the municipal level. The reporting is based on mobile application (Android, iPhone) and web-platform.

Denmark (DK)

DK1: Open and comprehensive system of access to information

The Danish system of access to information, both with regard to scientific and administrative information, is generally very open and comprehensive and available online without a financial burden. Denmark is also provides good public information on environmental rights.

⁷ ENVIHELP helpdesk <https://helpdesk.cenia.cz/hdPublic/helpdesk/>

DK2: Well integrated public participation - into decision making processes

Public participation and consultation is generally well integrated into decision making processes. EIAs in particular have been considered a good example of genuine public participation in decision-making, leading to improved decisions.

DK3: Detailed information on obligations

In Denmark, detailed information is available for farmers with regard to their obligations related to fertilizer use and manure storage in nitrate vulnerable zones including pdf guides to specific rules and geographic designations. The same is true for landowners regarding their obligations relating to Natura 2000 sites. The information is available in different places depending on the status and type of land, but can be accessed through a designated website of the Ministry for Environment and Food.

Germany (DE)**DE1: Institutions monitoring important policy processes**

Both the German Advisory Council on the Environment⁸ and the Expert Commission on the Energy of the Future Monitoring Process⁹ are good practice examples for institutions accompanying important policy processes, pointing to (potential) gaps, and making recommendations on how to bridge these gaps.

DE2: Environmental Impact Assessment Database

EIA data from federal authorities are made available via a portal¹⁰, which allows a search for current and recently terminated EIAs with links to technical documentation. EIA data at the *Länder* level are accessible from another common portal¹¹, where a selection by federal state as well as with keywords is possible. In addition, search is possible with a web-based map. Extensive technical documentation can be found for individual entries.

DE3: Access to people with hearing impairment

The Environment Ministry website is configured barrier-free according to the Barrier-free Information Technology Ordinance (*Barrierefreie-Informationstechnik-Verordnung*, BITV 2.0). In general video files in the media library have subtitles. Audio files, charts and diagrams are also available in the media library.

One video file has information on the tasks and structure of the BMU in sign language, as do two short video files about local climate protection and the natural world heritage. General information about the tasks of the BMU is also provided in easy-to-understand language.

DE4: Environmental Key Indicator System

The Environmental Key Indicator System (KIS) is a useful instrument recording the status of environmental policy in Germany.

DE5: Early participation for planning processes

Germany introduced a system of early participation for planning processes in 2013 to respond to highly controversial planning processes such as the one for the railway and urban development project

⁸ Sachverständigenrat für Umweltfragen, https://www.umweltrat.de/DE/Home/home_node.html.

⁹ Expertenkommission zum Monitoring-Prozess „Energie der Zukunft“, <https://www.bmwi.de/Redaktion/DE/Artikel/Energie/monitoring-prozess.html>.

¹⁰ UVP-Portal des Bundes, <https://www.uvp-portal.de/>

¹¹ UVP-Portal Verbund, <https://www.uvp-verbund.de>

Stuttgart 21 that triggered mass protests. Competent authorities can ask managers for big projects that may affect many people to inform the public at an early stage.

DE6: Comprehensive information on access to justice

In Germany, comprehensive information on access to justice on environmental matters as well as on the Aarhus Convention is provided through the websites of the Ministry for Environment (BMU)¹² and the Federal Environment Agency (UBA). A specialised brochure was published with practical information about the rights of citizens and environmental organisations in the context of the Aarhus Convention¹³. The brochure describes in a clear and precise way the available legal remedies and also addresses the associated costs. Furthermore, the website of the UBA provides information about the Environmental Appeals Act as well as links to the most relevant rulings of the Court of Justice of the European Union (CJEU) and the Federal Administrative Court (BVerwG).

DE7: Accessible and transparent system for complaints

The "Brandenburger Märker"¹⁴ is a good example of an easy accessible and transparent system to deal with complaints at local level.

Estonia (EE)

EE1: Uniform public websites for easy orientation of the public

All public websites follow the same format, which makes it easy to navigate in their content. All public websites follow major accessibility requirements. All state owned websites are subject to the Web Content Accessibility Guidelines 2.0 AA standard. All websites include an "Accessibility" (Juurdepääsetavus) link on their front page. Accessibility options are clearly described under that link.

EE2: Use of geographical information systems

The use of geographical information systems is very well developed, and most data is very easy to find. GIS databases and e-services¹⁵ are available through Land Board "Geoportal"¹⁶. The INSPIRE Directive data sets are shared via INSPIRE webpage¹⁷. A centralised public webpage and map application of Estonian Environmental Register (EER) provides up to date, validated and verified data and GIS based information regarding natural resources, natural heritage, the status of the environment and environmental factors.

EE3: Information regarding proposals for support and subsidies

The website of the Ministry of Agriculture, Fishing, Food and the Environment provides access to a single-entry database providing information on proposals for support and subsidies, both at state level and at the level of the autonomous communities, for agricultural, environmental and fishing topics.

EE4: Electronic means for communication with the public

Estonia makes many efforts to exploit easy electronic means for the public to communicate with the authorities. All legislative drafts, including letters from other government authorities regarding the

¹² Bundesumweltministerium, <http://www.bmu.de/themen/umweltinformation-bildung/umweltinformation/zugang-zu-gerichten/>.

¹³ Umweltbundesamt, Bundesministerium für Umwelt, Naturschutz und nukleare Sicherheit (2018): *Beteiligungsrecht im Umweltschutz. Was bringt Ihnen die Aarhus-Konvention?*, pp. 30 et seq., https://www.umweltbundesamt.de/sites/default/files/medien/421/publikationen/2018_05_18_uba_fb_aarhuskonvention_bf.pdf.

¹⁴ Brandenburger Märker, <https://maerker.brandenburg.de/sixcms/detail.php?template=startseite>.

¹⁵ <https://geoportaal.maaamet.ee/est/Teenused-p72.html>

¹⁶ <https://geoportaal.maaamet.ee/est/Andmed-ja-kaardid-p1.html>

¹⁷ <http://inspire.maaamet.ee/avaleht>

drafts are published at a dedicated webpage “Eelnõude Infosüsteem” (Information System for Drafts)¹⁸.

EE5: Stakeholder involvement in the legislative processes

The Ministry of Environment frequently invites stakeholders, including NGOs and interested members of the public, to take part in the drafting process of a legislative proposal or a strategic planning document. The Ministry of Environment also organises annual partnering events for stakeholders with the purpose of introducing its annual workplan, priorities and to discuss current hot topics.

EE6: Citizen science

Citizen science is employed in nature conservation. There are two public portals: Estonian Nature Observations Database (LVA) and eBiodiversity (eElurikkus). Estonian Nature Observations Database (<https://lva.keskkonnainfo.ee/>) is a result of long-term cooperation between the Estonian Environment Agency and the Estonian Naturalists’ Society. Since 2010 the Environment Agency has organised public species observations campaigns every year. Since 2015 a special smartphone application has supported submission of observation data to the Nature Observations Database.

EE7: Clear and accessible inspection plans

In Estonia, as regards the planning of inspections the website of the Environmental Inspectorate includes the plan for 2016-2018. The timeline is indicated with six months accuracy. The Ministry of Environment hosts detailed information about Industrial Emissions on its website. This includes easy to access and understandable data on all installations subject to the Industrial Emissions Directive, pdf copies of all permits, amendments to permits and all inspection reports.

Ireland (IE)

IE1: Information Commissioner

An Environmental Information Commissioner¹⁹ (who is required to be the same as the Commissioner established under the broader Freedom of Information Acts) enforces rights of access to information, including through considering appeals against refusal to provide information.

IE2: Broad legal standing

Legislation enabling “any person” to bring cases to court on a range of environmental issues (air quality; waste; land use planning) is potentially a good practice, although we have not identified information on the use of these provisions in practice; and it should be noted that public access to justice in respect of planning law remains subject to a “sufficient interest” test on which jurisprudence is evolving.

IE3: Citizen’s Information website

In Ireland, the Citizen’s Information website has an easily located page on the Aarhus Convention²⁰, which describes the broad requirement for access to justice, and provides a link to its page on the judicial review process.

¹⁸ eelroud.valitsus.ee

¹⁹ See the website of the Office for the Commissioner for Environmental Information <http://www.ocei.ie/>

²⁰ Citizens Information, Aarhus Convention and related agreements, http://www.citizensinformation.ie/en/environment/environmental_law/aarhus_convention.html

IE4: Public availability of full documentation on permits, including on inspections and enforcement, in a geographically searchable form.

The Environmental Protection Agency's online system for permitting²¹, including for applications, but also as a portal providing public access to a wide range of documentation, in a geographically searchable form, is a valuable model; and there may be scope for wider use in other Member States of the IT infrastructure underpinning the system.

Greece (EL)

EL1: Very broad interpretation of legal standing

Since the constitutional revision of 2001, environmental protection is defined as everybody's right, and natural and legal persons can invoke the constitutional right to environmental protection directly in administrative or judicial procedures to protect the environment. The Greek Council of State in its jurisprudence accepts a very broad interpretation of legal standing on cases for the protection of the environment. Not only inhabitants of the area where the project has its impacts, but also NGOs, other legal entities and even groups of persons not possessing legal personality who are interested in the protection of the environment, can submit a petition to the court. The Council of State's jurisprudence has been particularly pioneering towards environmental protection, interpreting the notion of legal interest broadly, and establishing the assumption that the environment constitutes a legitimate good, not just individually but collectively as well.

EL2: Ombudsman's team of investigators on environmental issues

The Greek Ombudsman has a dedicated team of investigators responsible for cases of maladministration on behalf of national authorities on issues related to environmental and urban planning legislation. The Kallikratis Plan²² established the Regional Ombudsman whose role is to handle complaints which directly affect the citizens and businesses and relate to maladministration by the regional authorities. The Regional Ombudsman supervises the regions and ensures that their activities follow the legislative procedure.

EL3: Environmental Law Observatories

In the Region of Crete, two Environmental Law Observatories (ELO) of East and West Crete started operating in early 2017, aiming to help citizens file complaints on environmental degradation cases and/or violations²³. In the framework of the project "Life Natura Themis"²⁴ a smart phone application has been developed, allowing citizens to report anonymously incidents of environmental violations (including photos). This material is forwarded to the Hellenic Association for the Protection of the Nature, which forwards the complaint/ report to the relevant responsible authority^{25,26}.

²¹ See: <http://www.epa.ie/terminalfour/ippc/index.jsp>

²² Law 3852/2010 (OGG 87A/07.06.2010) on the "New Architecture of Local Government and Decentralized Management - Kallikratis Program", <https://www.hc-crete.gr/Media/Default/law/62193-1.PDF>

²³ <http://www.lifethemis.eu/en/content/environmental-law-observatories-full-operation>

²⁴ <http://www.lifethemis.eu/en>

²⁵ <http://greenagenda.gr/κρήτη-έξυπνη-εφαρμογή-για-την-καταγγε/>

²⁶ <http://ecopress.gr/?p=3880>

Spain (ES)

ES1: Centralised information provision

The institutional websites providing information for SEA and EIA²⁷ for plans, programs and projects employ an interesting approach to have all information centralised and thus easily accessible. This tool helps Spain deal with the challenges of coordination and cooperation that stem from its highly decentralised administration. Moreover, the tool can be further developed through improvements to its filter tools and by providing further information and explanation on the documents they contain.

ES2: A single-entry database providing information regarding proposals for support and subsidies

The website of the Spanish Ministry of Agriculture, Fishing, Food and the Environment provides access to a single-entry database providing information regarding proposals for support and subsidies, both at state level and at the level of the Autonomous Communities for agricultural, environmental and fishing topics. Its “Services” section includes a thorough section on “support and subsidies”, which provides details for nine different areas: agriculture, biodiversity, fishing, water, rural development, food, livestock farming, Life+ projects and European Regional Development Funds.

France (FR)

FR1: Charter for public participation

France has good practices examples in the field of public participation and better regulation. The Charter for Public Participation²⁸ is a guideline document for best practices for public participation in any project including public participation. Good practices are shared among the Charter community members.

FR2: Consultation for better regulation

The guideline on “consult to better regulate” (‘Consulter pour mieux réglementer’²⁹) can also be considered a good practice example.

FR3: Information on the national legal provisions on access to justice in relation to the Aarhus Convention

Websites like the ‘Tout sur l’environnement’ portal³⁰ or Legifrance³¹ provide information on the national legal provisions on access to justice in relation to the Aarhus Convention. They refer to articles related to access to justice by environmental NGOs, general information about legal proceedings, costs of procedures, the possibility to have legal aid, and effective remedies.

FR4: Information on access to justice

The Conseil d'Etat³² and the Commission on Access to Administrative Documents website³³ in France both include guidance about the procedure to follow to exercise access to justice rights. For general

²⁷ Centralised web platform, <https://www.miteco.gob.es/en/calidad-y-evaluacion-ambiental/temas/evaluacion-ambiental/default.asp>

²⁸ Charte de la participation du public, Ministry of Ecological and Solidarity Transition, <https://www.ecologique-solidaire.gouv.fr/charte-participation-du-public>

²⁹ Consulter pour mieux réglementer, <http://www.modernisation.gouv.fr/sites/default/files/fichiers-attaches/guideconsultationavril13.pdf>

³⁰ Quelles actions dans quels cas ?, Tout sur l'Environnement, <https://www.toutsurlenvironnement.fr/Aarhus/lacces-du-citoyen-a-la-justice/quelles-actions-dans-quel-cas>

³¹ https://www.legifrance.gouv.fr/affichCode.do?jsessionid=8BDD5C88A26447FE39B318540B9B385B.tplgfr33s_2?idSectionTA=LEGISCTA000006159313&cidTexte=LEGITEXT000006074220&dateTexte=20180514

³² Démarches et Procédures, Conseil d'Etat, <http://www.conseil-etat.fr/Conseil-d-Etat/Demarches-Procédures>

³³ Mes démarches, CADA, <https://www.cada.fr/particulier/mes-demarches>

information about access to justice, the government information website 'Service public.fr' contains the necessary information.

FR5: Clear complaints procedure

The procedure to make a complaint on an environmental matter is straightforward, especially regarding classified installations, and for making complaints to the ombudsman.

FR6: Single environmental authorisation procedure

Since 1 March 2017, France operates a single environmental authorisation procedure which merges different procedures and authorisations. In the future, and in the framework of the government's efforts to modernise public action, an electronic one-stop shop will be developed, which will enable speedier electronic cooperation between the authorities involved in the environmental authorisation.

Croatia (HR)

HR1: Information Commissioner as an independent compliance monitoring mechanism

The instrument of the Information Commissioner was established in 2013 as an independent compliance monitoring mechanism that checks and reports on transparency of governance and compliance with the Right of Access to Information Act (RAIA); it also handles second-instance appeals in complaints against governmental infringement of the right of access to information, informs citizens of their rights, proposes legislation and conducts capacity building actions for improving the access to information procedures of public authorities. The Information Commissioner website provides clear instructions on procedures for exercising right of access to information³⁴, obligations of authorities, as well as an overview of the related administrative decisions and legal practice.

HR2: Government's wide application of social networks in communicating with citizens.

The Croatian Government started in 2012 with wide application of social networks in communicating with citizens. According to an online research report "Twiplomacy"³⁵, among 793 analysed Twitter accounts of governments and country leaders on 6 continents, the Croatian Government is among the most communicative (relative to country size and influence), constantly in top 20 in terms of daily tweets and responses.

HR3: Guidelines for the implementation of the Code of consultation with concerned public

The Government Office for Cooperation with NGOs prepared *Guidelines*³⁶ for the implementation of the Code of consultation and a *Guide to Consultation with the Interested Public*³⁷, and carried out training events for consultation coordinators³⁸ in state administration bodies and Croatian Government offices. To counteract the weak implementation capacities recorded at regional and local

³⁴ Information Commissioner website, instructions on procedures for exercising right of access to information <http://www.pristupinfo.hr/ostvarivanje-prava-na-pristup-informacijama/>

³⁵ Twiplomacy online research website, <https://twiplomacy.com/blog/twiplomacy-study-2016/>

³⁶ Governmental Office for Cooperation with NGOs (2010), *Smjernice za primjenu Kodeksa savjetovanja sa zainteresiranom javnošću u postupcima donošenja zakona, drugih propisa i akata*, pp. 7-36, https://udruga.gov.hr/UserDocsImages/UserFiles/File/Smjernice_PDF.pdf

³⁷ Bardet, C. (2012), *Priručnik za savjetovanje sa zainteresiranom javnošću*, Zagreb, prepared in the framework of EU-funded technical assistance project to Governmental Office for Cooperation with NGOs, pp. 8-96, <https://udruga.gov.hr/UserDocsImages/userfiles/file/Prirucnik%20za%20savjetovanje.pdf>

³⁸ List of consultation coordinators in public authorities, <https://savjetovanja.gov.hr/istaknute-teme/provedba-savjetovanja/koordinatori-za-savjetovanje-u-tijelima-drzavne-uprave/1105>

government, the Information Commissioner prepared a *Guide to conducting public consultation for the units of local and regional government*³⁹.

HR4: Use of geospatial data

In Croatia, the ENVI portal of the HAOP⁴⁰-Croatian Environment and Nature Protection Agency provides geospatial data on the distribution of emissions, mobile and immobile emission sources, habitats and Natura 2000 sites, illegal landfill sites, waste management facilities and disposal sites and a national air quality network with live air quality data from more than 50 stations across the country. These are all accessible at the HAOP homepage and, among other purposes, the inspection services use the data in the preparation for individual site visits.

HR5: Reliance on e-government and e-services, portals e-Consultations and e-Citizen

Reliance on e-government and e-services is a dominant approach in modernisation of service delivery in Croatia. The central e-Government portal⁴¹ has been set up as a one-stop information point presenting the structure, function and roles of all governmental authorities, enabling simple access to all public administration information and services searchable by service type, topic or sector, as well as follow policy activities. Currently, over 485 datasets are available, as well as 2 sub-portals: e-Consultations⁴² and e-Citizen⁴³. The e-Consultations portal is a public consultation tool where public authorities are obliged to publish drafts of legislation and other policy documents and comments can be submitted by all interested stakeholders; the related public consultation reports are also available online.

Italy (IT)

IT1: Portal for Environmental Assessments

The Portal for Environmental Assessments⁴⁴, a public database maintained by the Ministry of the Environment, provides the public with detailed information on projects requiring EIA and contains technical background and documentation which allows detailed public analysis of the projects. ISPRA publishes online numerous and relevant environmental information, also in the forms of reports.

IT2: Participatory budgeting on environmental projects

An important experience of participatory budgeting⁴⁵, that included environmental projects (like ecological corridors, greenways, bike lanes), was developed in the Municipality of Milan, with outreach initiatives and co-designing workshops, open to all residents over the age of 16 and advertised on line and on street posters: out of 1,340,000 inhabitants, 30,172 people voted in 2015-2016 and 40,501 people voted in 2017-2018.

³⁹ Information Commissioner (2016), *Priručnik za provedbu savjetovanja s javnošću za jedinice lokalne i područne (regionalne) samouprave*, Zagreb, pp. 6-58, <http://www.pristupinfo.hr/wp-content/uploads/2014/03/Prirucnik-za-savjetovanja-e-izdanje.pdf>

⁴⁰ ENVI environmental data portal, <http://www.haop.hr/hr/informacijski-sustavi>:
Geospatial data on the distribution of emissions and sources, <https://emep.haop.hr/>
Habitats and Natura 2000 sites, <http://www.bioportal.hr/gis>
Waste management, <http://envi.azo.hr/?topic=8>

National air quality network, <http://iszz.azo.hr/iskzl/>

⁴¹ Central e-Government portal, <https://gov.hr/>

⁴² National e-consultations portal, <https://esavjetovanja.gov.hr/ECon/Dashboard>

⁴³ National e-Citizen portal, <https://pretinac.gov.hr/>

⁴⁴ Portal for Environmental Assessments, Ministry of the Environment.
<http://www.va.minambiente.it/it-IT>;

⁴⁵ See, <http://pti.regione.sicilia.it/portal/pls/portal/docs/146698497.PDF>.

IT3: Specialised environmental police forces

Italy has specialised environmental police forces⁴⁶, namely the *Comando Unità per la Tutela Forestale, Ambientale e Agroalimentare Carabinieri* and the special departments of other police forces, which carry out significant monitoring, control and enforcement activities. For instance, a case where drones have been used by the *Carabinieri* to counter illegal waste activities has been reported by the media on 16 May 2018. The Regional Environmental Protection Agency and the *Carabinieri* for the Protection of the Environment (*Nucleo Operativo Ecologico*, NOE) then also identified toxic material. As a result, four persons have been reported to the judicial authority and an area of 40,000 cubic meters has been seized for an alleged illegal landfill of waste (including hazardous waste) and illegal air emissions.

Cyprus (CY)

CY1: Simplicity in the implementation of environmental legislation

The simplicity of governance structures for implementation of environmental legislation is an asset. The main competent body is the Ministry of Agriculture, Rural Development and Environment, and in particular its Department of Environment.

CY2: Website for user-friendly and up-to-date information on air quality

The website⁴⁷ maintained by the Department of Labour Inspection of the Ministry of Labour, Welfare and Social Insurance **providing information on air quality in Cyprus** has a clear and user-friendly design, presenting information effectively and transparently. The information is up-to-date, the flow of information is consistent and the presentation of data through graphs, maps etc. is engaging and provides a number of alternatives for visualisation. However, it is an unusual approach that the website is maintained by the Ministry of Labor and thus might be hard for users to locate; and the categorisation of pollution levels is not fully in line with the EEA's.

CY3: Commissioner for Environment

In Cyprus, the Commissioner for Environment has specific powers to review the decisions of public authorities in the environmental field. In addition, the Commissioner for Administration and Human Rights provides an alternative route to environmental litigation by examining complaints about instances of maladministration when administrative authorities apply environmental legislation.

Latvia (LV)

LV1: Public to initiate legal proposals

The Second National Action Plan of Latvia⁴⁸ on the Open Government Partnership Initiative includes several good practice examples, e.g. “Mana balss”, which allows public to initiate legal proposals to be submitted to the Parliament and the development of a draft law on protection of whistle blowers.

LV2: Very broad access to justice in environmental cases (*actio popularis*)

Latvia grants the public, notably individuals and NGOs, a very broad access to justice in environmental cases (*actio popularis*). It has well-developed legislation on access to information and public participation, e.g. all the draft planning documents and legal acts are available for comment. The Mobile application “VidesSOS” is a good private initiative making submission of environmental complaints easier for the general public.

⁴⁶ Polizia di Stato, <https://www.poliziadistato.it/articolo/23563>

⁴⁷ Air quality, <http://www.airquality.dli.mlsi.gov.cy>

⁴⁸ Open Government Partnership Initiative (2016), *Second National Action Plan Of Latvia*, https://www.mk.gov.lv/sites/default/files/editor/ogp_2_plans_aktualizets_05.12.2016_eng_clean.pdf

LV3: Simple easy to use risk assessment tool

The State Environmental Service (SES) has developed a risk assessment tool with simple easy to collect samples for evaluation criteria. This tool helps them to prioritise which sites to inspect in the current year and which sites to leave in subsequent years. SES also work collaboratively with many other regulatory agencies and academia. This helps to reduce the administrative burden, with sharing of intelligence leading to better environmental outcomes and solutions to technical problems.

LV4: Electronic services to interact with society

The MoEPRD and its subsidiary institutions have all developed electronic services to interact with society. The State Regional Development Agency (a subsidiary institution of the MoEPRD) has developed a One-stop-shop concept for Latvia. According to this Concept, all the ministries should include their services in the public portal⁴⁹, with more and more environmental services consequently being made available online.

LV5: Formal cooperation agreements to fight environmental crime

In Latvia, formal cooperation agreements to effectively fight environmental crime, exchange information and ensure training have been signed by the Nature Conservation Agency and the Municipal Police of Riga, the Customs Board and the State Environmental Service.

LV6: Complaint handling through social media

A lot of complaints are submitted via social media. The Nature Conservation Agency has both Facebook and Twitter accounts, while the State Environmental Service operates only a Facebook account. Both institutions actively respond to the questions and complaints submitted. All complaints and questions are treated as standard applications, which have to be answered within 30 days.

Lithuania (LT)***LT1: Comprehensive program for fighting corruption***

The Ministry of Environment is aware of transparency issues and corruption risks and implements a comprehensive program for fighting corruption. The website of the ministry contains the special “Hot line” section on its home page, which provides information on how to submit a complaint about an environmental damage or corrupt behaviour of government officials. All public inquiries and complaints are handled using the One-Stop-Shop principle⁵⁰.

LT2: Broad access to justice for individual and NGOS

Lithuanian legal acts ensure a broad access to justice in environmental cases for individuals and non-governmental organizations. There are no restrictive standing rules in Lithuania and the costs for bringing a case to a court are relatively low.

LT3: User-friendly information about access to justice

Lithuanian Courts internet portals provide user-friendly information about access to justice in general⁵¹.

⁴⁹ www.latvija.lv.

⁵⁰ Aplinkos ministerija, one-stop-shop, <http://www.am.lt/VI/index.php#a/12715>

⁵¹ Lietuvos teismai, <http://www.teismai.lt/lt/visuomenei-ir-ziniasklaidai/aktuali-informacija-teismu-lankytojam/107>, <https://e.teismas.lt/lt/public/home/>

LT4: Compulsory in-service training for judges

Over 60% of Lithuanian judges undergo compulsory in-service training, which is one of the highest percentages in the EU. Training on environmental issues is among the topics for the Lithuanian judicial authorities.

LT5: One-Stop-Shop principle

In 2007 the Lithuanian Government introduced the one-stop-shop principle into the public administration⁵². State and municipal institutions are now obliged to follow this principle in serving individuals and examining their requests and complaints⁵³. For example, in accordance with the Minister of Environment Decree No. D1-570 on procedures for handling public inquiries and complaints, any request is to be handled using the One-Stop-Shop principle.

Luxembourg (LU)

LU1: Official Facebook page of the environment administration

The Environment Administration established an official Facebook page in September 2017. This provides about 2 – 5 updates per week, giving information to up to 11,000 people. The government has started to develop mobile apps on a range of issues to support public access to information. This includes a mobile version of the guichet page, and specific apps for waste management and for air quality.

LU2: Institutional collaboration to promote sustainable waste management practices

SuperDrecksKëscht – a joint collaboration between the Ministry for Sustainable Development, the cantons and the Chamber of Crafts and Commerce, this brand aims to promote sustainable waste management practices⁵⁴. It includes a range of activities such as product labelling, certification, guided tours, professional training and sustainable procurement.

LU3: Initiatives to create dialogue

In Luxembourg there are some examples of specific initiatives to create dialogues between different stakeholders, including the EU institutions and civil society. One example of this is the clean air dialogue, which was established between the Environment Administration and the European Commission – in order to develop policies to address poor air quality linked to road traffic, agriculture, and biomass combustion in residential areas⁵⁵.

Hungary (HU)

HU1: Information about compliance obligations

In Hungary, information about obligations for farmers is given mainly on the website of the Hungarian Chamber of Agriculture that provides user-friendly handbooks on a number of issues including cross-

⁵² By adopting Resolution No. 875 “On Approval of the Examination Order of Applications of Individuals and Their Servicing at Institutions, Agencies and Other Public Administration Establishments”

⁵³ Nakrošis, V. (2017), *Support for developing better country knowledge on public administration and institutional capacity building (EUPACK), Report on Public Administration Reform Trends and Reform Dynamics in Lithuania*, report prepared for DG EMPL of the European Commission, p. 10

⁵⁴ SuperDrecksKëscht (2016) Annual Report 2016 - Annual report/sustainability report. https://www.sdk.lu/images/PDF/Broschuere/Sustainability-report-2016_17-EN-web.pdf

⁵⁵ Luxembourg, Rapport d’activité 2017, Ministère du Développement durable et des Infrastructures Département de l’environnement, <https://gouvernement.lu/dam-assets/fr/publications/rapport-activite/minist-developpement-durable-infrastructures/2017/rapport-activite-2017-environnement/rapport-d-activites-2017-departement-de-l-environnement-plus-cover.pdf>

compliance and the Nitrates Directive. These handbooks explain the relevant regulations in an easily understandable way and provide useful case examples. A summary of key points and link to the handbooks is also available on the website of the Hungarian Paying Agency.

Malta (MT)

MT1: Well established procedures for public participation

The provisions and procedures for public participation in decision-making on plans/programmes related to the environment, and in relation to planning and permitting processes, are well set out in Maltese legislation. For example: the Plans and Programmes (Public Participation) Regulations 2006 require early and effective opportunities for the public to participate in the preparation, modification or review of required plans or programmes.

MT2: Uniform public websites for easy orientation of the public

All public websites follow the same format, which makes it easy to navigate in their content.

The Netherlands (NL)

NL1: Portal Atlas Living Environment

The Atlas Living Environment (Atlas Leefomgeving)⁵⁶ portal is a digital service making information with respect to environment and health available for the public in the form of searchable maps. This Atlas explicitly aims to translate complex information to the local level and new datasets are being added on a regular basis.

NL2: Engagement of social actors in bottom up initiatives

- 'Do-democracy' (doe-democratie) in which citizens perform active roles in support of public interest goals⁵⁷;
- Green Deals⁵⁸: voluntary agreements between the central government and societal actors building on bottom-up initiatives for innovative environmental action;
- Consultative Body for Infrastructure and Environment (Overlegorgaan Infrastructuur en Milieu (OIM)): facilitation of experiments with new forms of exchange and learning, together with stakeholders⁵⁹;
- Directorate for Participation at Ministry of Infrastructure and Water Management, with a website Platform Participation⁶⁰ which publishes the public consultations and internet consultations for projects of the ministry and invites all concerned to express their views about new policy plans and projects;
- Sustainable 100: a ranking of major achievers in terms of sustainability as well as a Top 100 of young professionals taking action⁶¹;

⁵⁶ Portal Atlas Living Environment: in Dutch: <http://www.atlasleefomgeving.nl/>; in English: <http://www.atlasleefomgeving.nl/en/home>

⁵⁷ Ministry of Internal Affairs (2013). De doe-democratie. Kabinetsnota ter stimulering van een vitale samenleving. The Hague, <https://www.greenwish.nl/wp-content/uploads/Doe-Democratie-Kabinetsnota-2013.pdf>, 70 p.

⁵⁸ Green Deals: in Dutch: <http://www.greendeals.nl/>; in English: <http://www.greendeals.nl/english/>

⁵⁹ Act on Consultation Infrastructure and Environment, Stb. 1996, 621, lastly amended by Stb. 2014, 581.

⁶⁰ Platform Participation: in Dutch: <http://www.platformparticipatie.nl/>

⁶¹ Newspaper Trouw: <https://www.trouw.nl/redactie/duurzame100/2017/>

NL3: Support to complaints submission

Foundation Environmental Complaints (Stichting Milieuklachten) is a private initiative focused on digital assistance for filing environmental complaints⁶².

Austria (AT)

AT1: Guidance and standards for public participation

Guidance, standards and best practice information for public participation is made available centrally on a single web portal for Austria; and the Environment Ministry funds a portal specifically on public participation and sustainable development^{63,64}.

AT2: One-stop-shop Business Service Portal

The Austrian public administration maintains a one-stop-shop Business Service Portal called 'Unternehmensserviceportal' (USP). It provides general information on access to justice in environmental matters.⁶⁵ It also gives more specific information on access to review procedures⁶⁶.

AT3: Complaint handling application

Vienna has launched an App ("Sag's Wien"⁶⁷) in 2017 that enables citizens to file complaints that can also be used for complaints in the area of environmental protection.

AT4: Environmental Ombudsman for better enforcement

In addition to the general Ombudsmen, Austria has Environmental Ombudsmen that can initiate proceedings and help to enforce environmental law.

AT5: Digitalisation initiatives and e-governance

Austria has expanded its digitalisation efforts and ranks 2nd in the EU PACK comparative overview assessment of public administration characteristics and performance with regards to digitalisation and service delivery. Many plans to expand e-participation and e-governance are being developed.

AT6: Government efforts for more sustainable public procurement

The Federal Ministry for Sustainability and Tourism maintains a website⁶⁸ and helpdesk⁶⁹ on sustainable public procurement for other public authorities, and some procuring entities on a local and regional level also have internal strategies/policies.

AT7: SDG streamlining

The main mechanism for SDG implementation in Austria is their mainstreaming into the existing policy framework. This process was started jointly by all federal ministries in the summer of 2015, when

⁶² Foundation Environmental Complaints: <https://www.milieuklachten.nl/meldingen/index.html>

⁶³ Bundesministerium Nachhaltigkeit und Tourismus, Partizipation, <https://www.partizipation.at/home.html>

⁶⁴ Bundeskanzleramt (2009), Standards der Öffentlichkeitsbeteiligung, http://www.partizipation.at/fileadmin/media_data/Downloads/Standards_OeB/standards_der_oeffentlichkeitsbeteiligung_2008_druck.pdf

⁶⁵ Bundesministerium für Digitalisierung und Wirtschaftsstandort, Unternehmensserviceportal, https://www.usp.gv.at/Portal.Node/usp/public/content/umwelt_und_verkehr/oeffentlichkeitsbeteiligung_umweltbereich/allgemeines_zugang_gerichte_umweltangelegenheiten/41481.html

⁶⁶ Bundesministerium für Digitalisierung und Wirtschaftsstandort, Unternehmensserviceportal, https://www.usp.gv.at/Portal.Node/usp/public/content/umwelt_und_verkehr/oeffentlichkeitsbeteiligung_umweltbereich/antrag_ueberpruefung_unabhaengige_instanz_gericht/41494.html

⁶⁷ Stadt Wien, Sag's Wien, <https://www.wien.gv.at/sagswien/index.html>

⁶⁸ Österreichischer Aktionsplan zur nachhaltigen öffentlichen Beschaffung, <http://www.nachhaltigebeschaffung.at/>

⁶⁹ Österreichischer Aktionsplan zur nachhaltigen öffentlichen Beschaffung- Help Desk, <http://www.nachhaltigebeschaffung.at/help-desk>

every ministry conducted a review to explore which of the 17 SDGs had already been addressed by their respective strategies, programmes and measures. All federal ministries are instructed to mainstream the principles of Agenda 2030 and the SDGs into the relevant programmes and strategies, and where necessary to draft specific action plans with the involvement of stakeholders. Furthermore, public awareness is raised through the newly founded website www.sdg.gv and the organisation of a number of events, including parliamentary debates on the topic of SDGs⁷⁰.

AT8: Streamlining of the EIA

The EIA is streamlined with other administrative procedures through a mixture between joint and coordinated procedures.

Poland (PL)

PL1: Step-by-step guide for complaints handling

The Chief Inspectorate for Environmental Protection has published on their website a step-by-step guide for any citizen that perceives “something out of the ordinary that could negatively affect the environment” or an “environmental problem”. The guide was prepared on September 18, 2018. The guide uses accessible, non-expert language, to explain which authorities should be contacted with which issue. The guide explains which body should be contacted if the citizen believes that their initial complaint was not handled appropriately, differentiating between types of complaints⁷¹. However, at regional level the ease of filing a complaint varies significantly between voivodeships.

PL2: E-mail for reports on corruption

The General Directorate for Environmental Protection has a dedicated e-mail address where citizens can report environmental corruption issues⁷².

PL3: Management of the Fund for Environmental Protection

A system of dedicated funds (one national and 16 on voivodeship levels) manages the bulk of funds available from both national and international sources, e.g. EU-funds or environmental fees collected domestically. In general, the operation of the National Fund for Environmental Protection and Water Management as a standalone environmental finance manager can be considered a good practice due to the efficiencies gained through specialization of the Fund’s staff, visibility by the public, and a clearly defined strategy for the years 2017-2020; although we have not examined in detail the Fund’s operation in practice⁷³.

⁷⁰ BKA, BMEIA, BMASK, BMB, BMGF, BMF, BMFJ, BMI, BMLFUW, BMLVS, BMVIT, BMWFW, Rechnungshof, Austrian Development Agency und Statistik Austria, (2017), *Darstellung 2016 Beiträge der Bundesministerien zur Umsetzung der Agenda 2030 für nachhaltige Entwicklung durch Österreich*, Wien: Bundeskanzleramt, <http://archiv.bka.gv.at/DocView.axd?CobId=65724>.

⁷¹ Główny Inspektorat Ochrony Środowiska (2008), *Organy właściwe w sprawach skarg i interwencji*, <http://www.gios.gov.pl/pl/kontrola/organy-wlasciwe-w-sprawach-skarg-i-interwencji>

⁷² Działania antykorupcyjne, Generalna Dyrekcja Ochrony Środowiska, <http://bip.gdos.gov.pl/dzialania-antykorupcyjne>

⁷³ Narodowy Fundusz Ochrony Środowiska i Gospodarki Wodnej (2016), *Strategia Działania Narodowego Funduszu Ochrony Środowiska i Gospodarki Wodnej na lata 2017-2020*, http://nfosigw.gov.pl/download/gfx/nfosigw/pl/nfoopisy/813/5/5/strategia_nfosigw.pdf

Portugal (PT)

PT1: The annual publication of the Report on the State of the Environment

The annual publication of the Report on the State of the Environment⁷⁴ by APA, is offering valuable information to decision makers and the public.

PT2: Integrated online portal PARTICIPA

The online portal PARTICIPA reaches citizens and allows them to participate in public consultations related to environment (EIA, SEA other environment related consultations) in an integrated manner⁷⁵.

PT3: Broad legal standing

Portugal also provides robust legislation that grants legal standing to individuals and environmental NGOs if they wish to pursue court action against infringements by public authorities.

PT4: Capacity development for judges on environmental matters

The Centre for Judiciary Studies (Centro de Estudos Judiciários, CEJ⁷⁶) provides a module for magistrates in environmental matters⁷⁷.

PT5: Annual update of manuals for economic agents

The annual update of manuals and relevant information concerning the fulfilment of obligations under the Nitrates Directive by GPP, IFAP and DGADR helps businesses understand their obligations clearly.

PT6: Single Environmental Permitting Regime

The implementation of LUA⁷⁸ that has been developed to operationalise the Single Environmental Permitting Regime, simplifies and harmonises many environmental permits.

Romania (RO)

RO1: Better engagement of NGO in environmental governance

There is a significant presence of and recent increase in environmental NGOs' activity in environmental governance, in particular in the permitting process of industrial undertakings, and there is evidence of successful coordination of NGOs to prevent the permitting of projects. As a result, companies have started to pay more attention to early public participation in the decision-making process. Grants are made available to support sustainable development and the improvement of the environment in Romania through the contribution of NGOs and through public participation.

RO2: Employment of citizen science in safeguarding the country's forests

A good practice example is the employment of citizen science in safeguarding the country's forests. The 'Forest Inspector'⁷⁹ is a tool developed and successfully implemented that collects information from citizens based on voluntary contribution is used in the decision-making process regarding protection of forests.

⁷⁴ Fernandes, A. C., Guerra, M. D., Ribeiro, R., Rodrigues, S. (2017), *Relatório do Estado do Ambiente 2017*, Agência Portuguesa do Ambiente p. 10-23

<https://sniambgeoviewer.apambiente.pt/GeoDocs/geoportaldocs/REA/REA2017/RelatorioEstadoAmbiente2017.pdf> .

⁷⁵ Ministério do Ambiente (2018), *Participa*, <http://www.participa.pt/sobre.jsp>

⁷⁶ Centro de Estudos Judiciários, <http://www.cej.mj.pt/cej/home/home.php>

⁷⁷ Centro de Estudos Judiciários (2018), *Plano de Atividades 2017/2018*, p. 34, http://www.cej.mj.pt/cej/conheca-cej/fich-pdfs/docs-pub-legal/2017/Plano_de_atividades_2017_2018.pdf

⁷⁸ APA, Licenciamento Único Ambiental (LUA), <https://www.apambiente.pt/index.php?ref=17&subref=1262>

⁷⁹ Inspectorul Padurii, <http://rt1.forestier.ro:5017/sumalsatelit/#coordonate=24.958325,45.4929003/Z11>

RO3: INCOLAB - a mobile application for citizen signals

The National Environmental Guard recently launched the INCOLAB⁸⁰, a mobile application for reporting to the authorities about cases that might affect protected habitats or species, which includes the maps of two protected areas located in the Danube area as well as information on the species of these areas.

Slovenia (SI)

SI1: Easy to navigate websites

All public websites follow the same format, which makes it easy to navigate in their content.

SI2: Good use of geographical information

The use of geographical information systems is very well developed, and most data is very easy to find and available at Geoportal ARSO⁸¹.

SI3: Institution of the Information Commissioner and its role

Work of Information Commissioner in monitoring the transparency of work of public authorities and enforcing the right of access to information.

SI4: Facilitated operation of NGOs through core support

The Ministry of the Environment and Spatial Planning supports the provision of office space for environmental non-governmental organizations. Its info point connects interested publics and provides access to environmental and sustainable development information and publications for wider public.

SI5: Legal-Informational Centre for NGOs

Environmental defenders who offer legal counselling and expert support to NGOs and civil initiatives in the field of environmental protection, nature conservation and spatial planning. It is operated by the Legal-Informational Centre for NGOs, Slovenia – PIC, which has the status of acting in the public interest in environmental protection on national level.

Slovakia (SK)

SK1: Uniform public websites for easy orientation of the public

All public websites follow the same format, which makes it easy to navigate in their content.

SK2: 'Green Tripartite' platform

The Ministry of Environment enables the active participation of the NGOs in solving specific problems in strategic and conceptual documents of environmental care within this platform. The NGOs can submit their suggestions, draft solutions and comments in the preparation and drafting of laws, mainly within the working groups⁸².

⁸⁰ INCOLAB, <https://play.google.com/store/apps/details?id=com.indsoft.gnm>

⁸¹ <https://gis.arso.gov.si/geoportal/catalog/main/home.page>

⁸² OECD (2018), Working Party on Environmental Performance, Environmental Performance Reviews, Mid-term progress report: Slovak Republic. <https://www.minzp.sk/files/omv/mid-term-review-environmental-performance-slovakia-2017.pdf>

SK3: Single information point about the Aarhus Convention implementation

Slovakia has one single information point about how the country is implementing the Aarhus Convention⁸³.

SK4: 'TrashOut' application

An application for the monitoring of illegal waste activities, available on the website of the Ministry of Environment⁸⁴.

SK5: Enviro-Guard for reporting corruption

The Ministry of Environment has also a function called "Enviro-Guard" (formerly known as Environmental spy), where citizens can report corruption and violation of laws in nature conservation, or report illegal landfills⁸⁵.

Finland (FI)**FI1: Search engine for EIA projects**

Environment.fi maintains a search engine⁸⁶ for EIA projects. The search can be narrowed down based on the timeline of the EIA (public participations is open, EIA is pending, or EIA is completed). For completed EIAs, the webpage⁸⁷ provides information about the stages of the EIA, the consultation procedure and responses, a summary of the project and links to the environmental statement.

FI2: Joint website of the environmental administrations

The online services of the Ministry of the Environment, the Finnish Environment Institute, the ELY Centres and the Regional State Administrative Agencies have been merged into a joint website⁸⁸, representing Finland's environmental administrations. The goal of this merger is to improve communication with the public through the creation of an interactive online service. It covers issues related to Finland's environmental administration, its tasks and the objectives of its operations. These authorities also run their own websites⁸⁹.

FI3: Possibilities to participate in a wider set of proposed activities

The Finnish legislation makes it possible for the public to participate in proposed activities not listed in annex 1 of the Aarhus Convention. For example, the list of proposed activities in the Environmental Protection Decree is more extensive than the list in annex 1 to the Convention.⁹⁰

⁸³ Ministerstvo Životného Prostredia, <http://www.minzp.sk/eu/medzinarodne-dohovory/aarhusky-dohovor/>

⁸⁴ Ministerstvo Životného Prostredia, <https://www.minzp.sk/ekospion/trash-out/>

⁸⁵ Ministerstvo Životného Prostredia, <http://www.minzp.sk/strazca/>

⁸⁶ Environment.fi (2018), *YVA Hankkeet*, http://www.ymparisto.fi/fi-FI/Asiointi_luvat_ja_ymparistovaikutusten_arviointi/Ymparistovaikutusten_arviointi/YVAhankkeet?n5=1, (accessed 23.5.2018).

⁸⁷ Environment.fi (2018), *Nuolivaaran tuulipuisto, Kemijärvi, Salla*, 5.4.2018, [http://www.ymparisto.fi/fi-FI/Asiointi_luvat_ja_ymparistovaikutusten_arviointi/Ymparistovaikutusten_arviointi/YVAhankkeet/Nuolivaaran_tuulipuisto_o_Kemijarvi_Salla/Nuolivaaran_tuulipuisto_Kemijarvi_Salla\(33865\)](http://www.ymparisto.fi/fi-FI/Asiointi_luvat_ja_ymparistovaikutusten_arviointi/Ymparistovaikutusten_arviointi/YVAhankkeet/Nuolivaaran_tuulipuisto_o_Kemijarvi_Salla/Nuolivaaran_tuulipuisto_Kemijarvi_Salla(33865)) (accessed 23.5.2018)

⁸⁸ www.environment.fi

⁸⁹ Environment.fi (2015), *About Environment.fi*, 29.4.2015, [http://www.environment.fi/en-/About_environmentfi\(30673\)\(accessed 21.5.2018\)](http://www.environment.fi/en-/About_environmentfi(30673)(accessed%2021.5.2018))

⁹⁰ Ministry of the Environment (2017), Lumme, E. and Sahivirta, E., *Aarhus Convention implementation report 2017 in accordance with Decision IV/4 (ECE/MP.PP/2011/2/Add.1), The following report is submitted on behalf of Finland in accordance with decisions I/8, II/10 and IV/4*. 15.3.2017.

FI4: Open government and citizen participation

Finland has an Action Plan on Open Government, which encourages citizen participation across the board. The plan includes commitments and measures to promote openness and citizen participation⁹¹.

FI5: Cooperation on environmental crime and environmental crime prevention strategy

The Ministry of the Environment and the Ministry of the Interior set up a working group in 2014 to assess the cooperation between national authorities on environmental crime. The working group finalised a National Environmental Crime Prevention Strategy for Finland⁹² with goals to be met by 2020. The working group published its latest Action Plan for 2017-2018⁹³. One of the measures in the action plan resulted in the creation of regional working groups, consisting of the relevant authorities in the field of environmental crime prevention. There are now 17 regional co-operation groups across the country, bringing together officials from the relevant organisations to cooperate on environmental crime⁹⁴.

FI6: Sustainable public procurement

The Keino project enables a more innovative and sustainable approach to public procurement in the sectors of social services, health care, construction, energy, transport, logistics and circular economy. The aim of Keino is to develop a public procurement network, which recognises that procurement is a leadership tool and that those in the network openly share their experiences and learn from each other⁹⁵.

FI7: Harmonisation of impact assessment guidelines

In Finland the Council of Regulatory Impact Assessment recommends the preparation of a revised and harmonised set of impact assessment guidelines that would also include guidance on assessing the impacts of EU legislation.⁹⁶ A closer link between the European Commission's Impact Assessments and national RIAs is recommended, in order to improve law-making overall.

Sweden (SE)

SE1: System of Environmental Quality Objectives

Sweden's system of Environmental Quality Objectives⁹⁷ can be seen as a good practice, as it streamlines environmental issues across the whole administration, creates common goals on these issues. The Environmental Quality Objective system is composed of one generational goal, 16 national Environmental Quality Objectives and a number of milestone targets. This system was established in 1999 and it is constantly developed.

⁹¹ Avoin Hallinto (2016), *Open Government partnership: Finland's self-assessment report*, p. 10, <http://vm.fi/documents/10623/1193298/Open+Government+partnership+Finland's+self-assessment+report.pdf/fdef902d-305a-4b14-b9c3-666252fb416a>

⁹² Ministry of the Environment (2015), *Ympäristöriskotorjunnan strategia ja toimenpideohjelma*, 2015, https://julkaisut.valtioneuvosto.fi/bitstream/handle/10138/153955/YMra_16_2015.pdf?sequence=3

⁹³ Yhteistyöryhmä (2018), *Ympäristötorjunnan toimenpideohjelma vuosille 2017-2018*, <http://www.ym.fi/download/noname/%7B30264BF6-A06F-42AF-9239-E5B2BC414C9A%7D/124480>

⁹⁴ Feedback from Member State reviewer

⁹⁵ Ministry of Economic Affairs and Employment (2018), *KEINO –Kohti kestäviä ja innovatiivisia julkisia hankintoja*, 2/2018, <https://tem.fi/documents/1410877/2934378/KEINO+-+kohti+kest%C3%A4vi%C3%A4+ja+innovatiivisia+julkisia+hankintoja>

⁹⁶ Prime Minister's Office of Finland (2018), *Finnish council of Regulatory Impact Analysis, Annual Review 2017*, 4/2018, <https://vnk.fi/documents/10616/7861578/Finnish+Council+of+Regulatory+Impact+Analysis+Annual+Review+2017/5b9b4fd4-aa89-4700-b292-fa11b7d3cc43?version=1.1>

⁹⁷ Sveriges Miljömål, sverigesmiljomal.se

SE2: Webpages- easy to navigate and update

Information about environmental matters is easily available and the SEPA webpages are both easy to navigate and up to date and there are on-going initiatives to increase the accessibility of digital services relating to environmental issues. The SEPA webpage as well as its electronic services can definitely be seen as a good practice⁹⁸.

SE3: Artportalen - citizen's science reporting website

A good practice for citizen's science is Artportalen, a website where you can report your observations⁹⁹. This platform now has more than one million participants¹⁰⁰.

SE4: Progressive policy regarding green and sustainable public procurement

Sweden has very progressive policy regarding green and sustainable public procurement, with a new agency for green public procurement¹⁰¹ established in 2015 and continuous measurement of the percentage of public procurement where environmental requirements have been applied.

United Kingdom (UK)**UK1: Chief Scientific Adviser in the main Government Departments**

The appointment of a Chief Scientific Adviser in the main Government Departments appears to create excellent conditions for consistent and effective use of scientific and other evidence in policymaking.

UK2: The Information Commissioner¹⁰², is an independent authority set up to uphold information rights in the public interest, promoting openness by public bodies and data privacy for individuals; and has a specific role in respect of access to environmental information.

UK3: Accountability on written consultations

Formal written consultations involve the publication of full documentation, including an analysis of responses, and a statement of how and whether the policy has been adjusted as a result¹⁰³. The Government now has a short statement of principles for public consultation, which includes the points that information provided should be clear and concise; and that written consultations should be considered as part of a process of engagement.

UK4: Clear, well-structured, and easily understandable information for businesses and individuals on how to comply with their environmental obligations

Clear, well-structured, and easily understandable information for businesses and individuals on how to comply with their environmental obligations is provided. Information can also be accessed via the Farm Advice Service, which provides free advice, including online advice, to farmers and land managers on how to meet the cross-compliance requirements for payments under the Common

⁹⁸ Naturvårdsverket, naturvardsverket.se

⁹⁹ Artportalen, <https://artportalen.se/>

¹⁰⁰ European Commission, (2018), *Citizen science for environmental policy: Development of an EU-wide inventory and analysis of selected practices*, Bio Innovation Service, in collaboration with Fundacion Ibercivis and The Natural History Museum. P. 50.

¹⁰¹ Upphandlingsmyndigheten, <https://www.upphandlingsmyndigheten.se/en/sustainable-public-procurement/> and Upphandlingsmyndigheten Sustainability criteria, <https://www.upphandlingsmyndigheten.se/en/sustainable-public-procurement/sustainable-procurement-criteria/>

¹⁰² Gov.uk, Consultation principles: guidance, <https://www.gov.uk/government/publications/consultation-principles-guidance>

¹⁰³ Gov.uk, Consultation principles: guidance, <https://www.gov.uk/government/publications/consultation-principles-guidance>

Agricultural Policy. The cross-compliance guidance¹⁰⁴ for 2018 sets out in clear terms the requirements on farmers for compliance with nitrate vulnerable zones.

UK5: The Future Generations Commissioner for Wales

Under the 'Well-being of future generations Act (Wales) 2015'¹⁰⁵, the Welsh Government established a new requirement on public bodies to consider the long-term sustainability impacts of their policies and actions, and established a new office, the Future Generations Commissioner for Wales, with a remit to challenge and advise the Welsh government and its agencies on how to integrate the principles of long-term wellbeing into their policies

¹⁰⁴ Department for Environment, Food & Rural Development (2018), Guide to cross compliance in England 2018, p. 39

¹⁰⁵ Well-being of Future Generations (Wales) Act 2015, <http://www.legislation.gov.uk/anaw/2015/2/contents/enacted>

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