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

**Environmental Implementation Review 2022**

**Turning the tide through environmental compliance**

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## 1. Environmental policy is ever more critical in the current context

Over the past 3 years, the European Union has faced health, economic and geopolitical challenges that are unprecedented in recent history. Enhancing our collective security has become a paramount priority. As the war in Ukraine has unfolded, energy prices have increased dramatically and the war will clearly have an impact on the availability and price on staple food products. This has raised concerns that the EU's objective of making Europe the first climate-neutral continent could be set back. However, the current situation has highlighted more compellingly than ever how important it is to increase the EU's future resource independence, based on domestic renewable energy and greater efficiency. The environment, as one of the pillars on which our socio-economic model is built, cannot be immune to these challenges, but can help improve our resilience.

The increased geopolitical tensions should not make us lose sight of the current environmental crisis. In its REPowerEU plan<sup>1</sup>, the Commission recalled that the acceleration of Europe's clean energy transition and a faster implementation of the 'Fit for 55' proposals are at the core of our European strategy to tackle the current energy crisis and achieve a more resilient energy system. The war in Ukraine does not alter the fact that climate change, pollution and biodiversity loss are three of the most daunting challenges we face today. Every year, extreme weather and climate events have resulted in fatalities and significant economic losses<sup>2</sup>. The effects of climate change can already be seen in the fires we have suffered summer after summer in the south of Europe, in the droughts that are increasingly affecting central and northern Europe and in the occurrence of more and more major floods. Pressure on water and food production will continue to grow and parts of the EU are already subject to medium to high water-stress levels, which are expected to increase over time. One in every eight deaths in Europe can be linked to pollution<sup>3</sup>. Pollution affects the most disadvantaged and vulnerable population groups first and foremost, exacerbating discrimination and the risks of conflicts. Pollution is also one of the five main drivers of biodiversity loss, now threatening the survival of more than 1 million of the planet's estimated 8 million plant and animal species.

The European Green Deal<sup>4</sup> has proved to be correct in its objectives and sufficiently flexible to adapt to the evolving situation. Applying and, where necessary, further shaping EU policies and rules in response to emerging challenges will be geared towards long-term sustainability. The Green Deal already supports the decarbonisation of the energy system and the development of new cleaner technologies such as electromobility, green hydrogen, biochemicals and decarbonised materials. The EU is also reassessing its energy policy to move towards an energy system largely based on renewable energy and more energy efficiency supporting its climate and environmental objectives, complemented by a trade strategy focused on open strategic autonomy, based on increasing the resilience and sustainability of the EU economy<sup>5</sup>. Equally, the Green Deal and the EU legislation relating to the greening of agricultural policy and protecting biodiversity, as well as encouraging organic farming, are some of the sustainable responses to the issue of global food security and security of supply.

In addition, a healthy environment is intrinsically linked to our democratic values. Future generations have the right to inherit a clean environment and we have the duty to shape a socio-economic model that respects planetary boundaries. In that sense, our work contributes to the sound implementation of

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<sup>1</sup> [COM/2022/230 final](#).

<sup>2</sup> Economic losses and fatalities from weather- and climate-related events in Europe — European Environment Agency (europa.eu)

<sup>3</sup> [EEA Report No 21/2019](#).

<sup>4</sup> [COM\(2019\) 640 final](#).

<sup>5</sup> [COM\(2021\) 66 final](#).

the environmental rule of law, stronger environmental governance and better compliance in Member States.

The European Green Deal gave the Environmental Implementation Review a specific mandate in recognition of its broad and accurate analysis and conclusions, pointing out that the Commission and the Member States must ensure that policies and legislation are enforced, while underlining that *‘the environmental implementation review will play a critical role in mapping the situation in each Member State’*. This was reinforced by the European Green Deal investment plan<sup>6</sup>, which underlines that the Environmental Implementation Review (EIR) – on par with other instruments such as the European Semester and the national energy and climate plans under the Energy Union – will also serve to identify the investment needs of each Member State in the key sectors of environmental policy<sup>7</sup>.

## **2. Policy objectives and legal obligations will remain no more than good advice unless they are implemented – the role of the Environmental Implementation Review**

In addition to agreeing on ambitious goals at EU level, it is critically important to ensure that EU environmental policies and legislation are applied. Failed or weak implementation of environmental rules can have multiple damaging effects for the planet, for the population and for the economy. It can lead to political distrust and frustration, particularly among young people, who care little for empty phrases and will judge by results.

Environmental policy is typically implemented over long periods of time, and maintaining impetus is a challenge. However, it is implementation that delivers results for people. Continuity and persistence as the essential ingredients of effective implementation are therefore required to achieve the Union’s environmental ambitions. In 2016<sup>8</sup>, the Commission undertook to report regularly on the state of implementation of EU environmental legislation. This third EIR<sup>9</sup> takes stock of Member States performance in implementing EU environmental obligations, 5 years after the first EIR.

As mentioned in the previous editions, the EIR complements rather than replaces other tools that support, monitor and ensure compliance through enforcement at EU level. The EIR does not affect the power of the Commission to launch infringement proceedings<sup>10</sup> for breach of EU law. The EIR aims to support Member States, enabling them to better apply environmental policies and rules by providing them with the information and feedback they need, and by providing a much-needed overall picture of the state of play of environmental implementation proper in each EU country and at EU level<sup>11</sup>. It also provides clarity as regards the problems Member States face in helping decision-makers during implementation, particularly in terms of how resources should be prioritised.

In this respect the Commission has identified the most important objectives and targets, as defined in existing agreed policies and rules, which provide the benchmarks for measuring progress in implementation. They are similar to those used in previous EIR cycles, but where relevant they have been revised and improved. This makes it possible to track progress and make fair comparisons as

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<sup>6</sup> [COM/2020/21 final](#).

<sup>7</sup> Public support measures mentioned in the EIR need to comply with the state aid rules pursuant to Article 107 Treaty on the functioning of the EU.

<sup>8</sup> [COM\(2016\) 316 final](#).

<sup>9</sup> The first EIR package was adopted on 3 February 2017. On 4 April 2019, the European Commission adopted the second EIR package.

<sup>10</sup> On the basis of Articles 258 and 260 of the Treaty on the functioning of the EU.

<sup>11</sup> This EIR edition is based on the information available to the Commission up to May 2022.

regards Member States' performance in applying the body of EU law on the environment (the environmental acquis).

The EIR shows that political objectives common to all can only be achieved if the challenges specific to each Member State are tackled effectively. The priority actions, which make recommendations to each Member State, were tailored on the basis of the assessments in the country reports in order to identify how to fill the compliance gap. They were then harmonised to suit the countries in a similar position. The annex to this Communication provides an overview of the priority actions.

Based on the country reports, this Communication seeks to draw cross-cutting conclusions at EU level for each of the thematic areas assessed in the country reports, and on the governance framework and mechanisms which should enable environmental implementation. It concludes with the *Way forward*.

### **3. The state of implementation: findings**

#### **3.1. Circular economy and waste management**

With the new circular economy action plan of March 2020<sup>12</sup> the European Commission announced initiatives for the entire life cycle of products, from design and manufacturing to consumption, repair, reuse, recycling, and bringing resources back into the economy. The aim is to reduce the EU's consumption footprint and double the EU's circular material use rate by 2030. Subsequently, with the Sustainable Products Initiative and the first EU strategy for sustainable textiles<sup>13</sup> the Commission delivers on key commitments under the new circular economy action plan. The revised circular economy monitoring framework<sup>14</sup> tracks key trends and patterns in order to understand how the various elements of the circular economy are developing and whether enough action has been taken. Nevertheless, effective reforms and investments are needed at national level.

To assess the circularity across the EU in the context of the EIR, the Commission looked into several aspects, such as the secondary use of materials, resource productivity<sup>15</sup> and the existence of circular economy strategies and programmes at national level. The EIR country reports also looked into waste generation per capita and how waste is treated, with a focus on the evolution of the recycling rate over the years. The 'Early warning' reports on waste management, which assess and raise awareness about progress towards the achievement of the EU waste targets, will be available by the end of 2022. The EIR also assessed the state of play of the transposition of the 2018 waste legislative package, including the Directive on waste<sup>16</sup>, the Directive on landfill of waste<sup>17</sup>, the Directive on packaging and packaging waste<sup>18</sup> and the Directive amending Directives 2000/53/EC on end-of-life vehicles, 2006/66/EC on batteries and accumulators and waste batteries and accumulators, and 2012/19/EU on waste electrical and electronic equipment<sup>19</sup>, as well as the state of play concerning the adoption of the waste management plans and waste prevention programmes, which are key instruments for the implementation of EU waste legislation.

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<sup>12</sup> [COM/2020/98 final](#).

<sup>13</sup> [COM\(2022\) 141 final](#).

<sup>14</sup> COM & SWD(2022) - current plans for adoption by the end of 2022.

<sup>15</sup> Which expresses how efficiently the economy uses material resources to produce wealth.

<sup>16</sup> Directive (EU) 2018/851 of the European Parliament and of the Council of 30 May 2018 amending Directive 2008/98/EC on waste, OJ L 150, 14.6.2018, p. 109–140.

<sup>17</sup> Directive (EU) 2018/850 of the European Parliament and of the Council of 30 May 2018 amending Directive 1999/31/EC on the landfill of waste, OJ L 150, 14.6.2018, p. 100–108.

<sup>18</sup> Directive (EU) 2018/852 of the European Parliament and of the Council of 30 May 2018 amending Directive 94/62/EC on packaging and packaging waste, OJ L 150, 14.6.2018, p. 141–154.

<sup>19</sup> Directive (EU) 2018/849 of the European Parliament and of the Council of 30 May 2018 amending Directives 2000/53/EC on end-of-life vehicles, 2006/66/EC on batteries and accumulators and waste batteries and accumulators, and 2012/19/EU on waste electrical and electronic equipment, OJ L 150, 14.6.2018, p. 93–99.

Figure 1: Recycling rate of municipal waste in 2020 (%)<sup>20</sup>

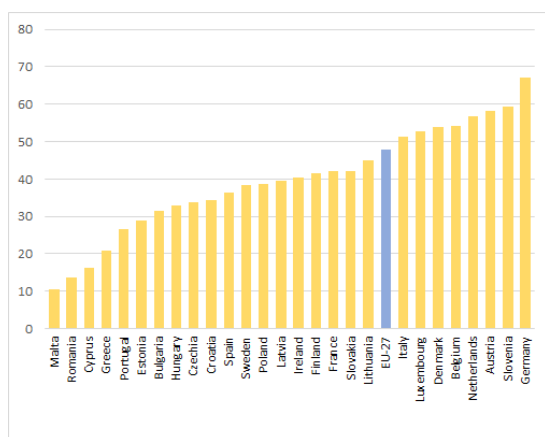
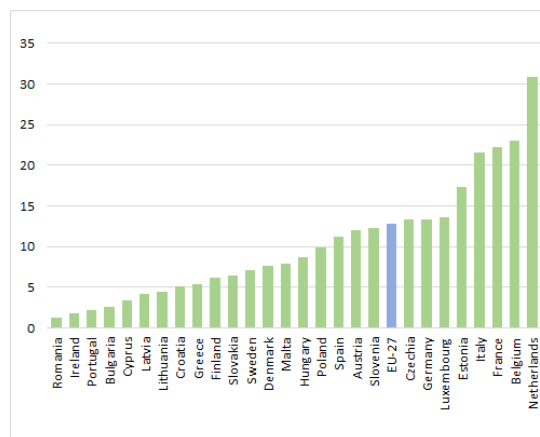


Figure 2: Circular material use rate in 2020 (%)<sup>21</sup>



### Findings

1. Most Member States now have national circular economy strategies and action plans in place or have announced and/or made progress in establishing comprehensive strategies covering the whole life cycle of products<sup>22</sup>.
2. There are large differences in circularity rates between Member States, with the secondary use of materials diverging from the 12.8% EU average, from 1.3% in Romania to 30.9% in the Netherlands. The same is true for resource productivity, where the EU average is 2.09 euro/kg, ranging from 0.3 euro/kg in Bulgaria to 5.89 euro/kg in the Netherlands.
3. Sectors such as plastics, construction materials and textiles should be given special attention due to their impact on the environment, but also their usefulness as secondary materials.
4. Waste prevention remains an important challenge in all Member States, including those with high recycling rates. The trend is moving in the wrong direction, as the generation of municipal waste in the EU has increased since 2014 from an average of 478 kg to 505 kg per capita: only five Member States have reduced their generation per capita since 2014<sup>23</sup>.
5. Achieving the 2020 target of 50% preparation for reuse/recycling of municipal waste remains an issue of particular concern, as highlighted in the 2018 early warning reports<sup>24</sup>.
6. Despite some progress, compliance with the basic obligations of the Waste Framework<sup>25</sup> and Landfill<sup>26</sup> Directives (closure of illegal landfills, rehabilitation, and treatment of waste before landfilling) is yet to be achieved. The Commission is currently pursuing infringement proceedings against 12 Member States over non-compliance with the Landfill Directive<sup>27</sup>.
7. Unfortunately, some Member States are facing both issues: they are far from achieving the recycling targets and they still operate non-conform landfills. As a result, these countries have a

<sup>20</sup> Eurostat, [Recycling rate of municipal waste](#), Oct. 2021. Data are for 2020 for all Member States except BG (2018), AT, EL and IT (2019).

<sup>21</sup> Eurostat, [Circular material use rate](#).

<sup>22</sup> With the exception of HR, HU, MT and SK.

<sup>23</sup> BE, BG (2018 figures), IE, HU, SE.

<sup>24</sup> PL, ES, SK, RO, PT, MT, LV, HU, EL, FI, EE, CY, HR, BG were considered at risk of missing the 2020 recycling targets. A new early warning report analysing progress on the recommendations from the 2018 early warning reports, as well as an analysis of progress towards achieving the 2025 waste recycling targets, will be presented at the end of 2022.

<sup>25</sup> Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives, OJ L 312, 22.11.2008, p. 3-30.

<sup>26</sup> Council Directive 1999/31/EC of 26 April 1999 on the landfill of waste, OJ L 182, 16.7.1999, p.1.

<sup>27</sup> BG, CY, EL, ES, IT, HR, PL, RO, SI, SK, CZ, PT. In addition, the Commission is investigating whether MT and ES comply with their obligation as regards appropriate treatment before landfilling.

*wider implementation gap compared with the rest of the EU<sup>28</sup>. They need serious efforts not only to achieve the EU waste targets already in force but also to build basic infrastructure and change unproductive and often illegal waste management practices.*

### **Successful practices**

**Spain** has put in place a comprehensive national circular economy strategy called “*España Circular 2030*”, which presents a long-term vision as well as a three-year action plans based on quantitative objectives.

**Ireland<sup>29</sup>** offers a useful example with its major reform of the waste sector, closing illegal landfills and financing extensive clean-up and remediation works. The reforms were carried out in close cooperation with the Commission, resulting in a system that ensures a high level of compliance with EU waste legislation.

## **3.2. Biodiversity and natural capital**

In the wake of the Green Deal, the Commission has undertaken to renew its enforcement efforts to address breaches of EU nature-related legislation. The EU biodiversity strategy for 2030<sup>30</sup> aims to put Europe’s biodiversity on a path to recovery and sets out new ways to implement existing legislation more effectively, with new targets and governance mechanisms in order to achieve healthy and resilient ecosystems. It aims to restore and protect nature and recognises that improving implementation and enforcement requires political support and increased financial and human resources, both at EU and national levels. As a key element of the EU Biodiversity Strategy, the Commission proposed a Nature Restoration Law<sup>31</sup>, which combines an overarching restoration objective for the long-term recovery of nature in the EU’s land and sea areas with binding restoration targets for specific habitats and species. These measures should cover at least 20% of the EU’s land and sea areas by 2030, and ultimately all ecosystems in need of restoration by 2050. Member States share responsibility for protecting and restoring biodiversity and natural ecosystems by ensuring proper implementation and enforcement of the relevant EU environmental acquis. In particular, the Nature Restoration Law puts in place a system of submission by the Member States of national restoration plans, showing how they will deliver on the targets, as well as systems of monitoring and reporting in relation to the progress achieved.

The biodiversity strategy works in tandem with the new farm to fork strategy<sup>32</sup>, EU forest strategy<sup>33</sup> and the new common agricultural policy to support and achieve the transition to fully sustainable agriculture and forest management practices. It also sets targets in relation to invasive alien species (IAS) and recognises the need to step up implementation of the IAS Regulation<sup>34</sup>. To achieve the biodiversity strategy’s goals for international cooperation, EU legislation is designed to ensure that we deliver on our international agreements and tackle EU consumption of illegally harvested products or endangered species. As regards forests, which provide significant environmental and socio-economic benefits, in July 2021 the EU forest strategy for 2030 was adopted as part of the ‘Fit for 55’ package.

<sup>28</sup> In particular EL, RO, MT and CY.

<sup>29</sup> Ireland needs however to step up its circular economy and improve recycling.

<sup>30</sup> [COM\(2020\) 380 final](#)

<sup>31</sup> [COM\(2022\) 304 final](#)

<sup>32</sup> [COM\(2020\) 381 final](#)

<sup>33</sup> [COM\(2021\) 572 final](#)

<sup>34</sup> Regulation (EU) No 1143/2014 of the European Parliament and of the Council of 22 October 2014 on the prevention and management of the introduction and spread of invasive alien species, OJ L 317, 4.11.2014, p. 35-55.



Its key objective is to ensure healthy, diverse and resilient EU forests. In addition, in November 2021, the Commission adopted a proposal for a regulation on deforestation-free products<sup>35</sup>. This Regulation ensures that the commodities in the scope (cattle, cocoa, coffee, oil palm, soya and wood) and the products containing those commodities cannot be placed or made available on the Union market, or exported from the Union, unless they are deforestation-free. Forests are important carbon sinks and efforts to conserve them are vital to the EU's vision of achieving climate neutrality by 2050. The Commission has therefore acted in order to minimise the EU's contribution to deforestation and forest degradation worldwide, thereby also reducing the EU's contribution to greenhouse gas emissions and global biodiversity loss.

The new EU soil strategy<sup>36</sup> addresses soil degradation and its impact on biodiversity. It stresses the importance of soil protection, sustainable soil management and restoration of degraded soils to achieving land degradation neutrality by 2030. Soil is a finite and extremely fragile resource and it is increasingly being degraded in the EU.

In the field of nature, the EIR focusses on assessing compliance with the Habitats<sup>37</sup> and Birds<sup>38</sup> Directives and with the Regulation on Invasive Alien Species. In particular, the EIR assesses the Natura 2000 sites (including forests and marine sites) in the Member States and how they ensure favourable conservation status for habitats and species. Moreover, the EIR assessed how Member States keep at bay the invasive alien species. Achieving full compliance by all Member States is essential to deliver on the targets in the EU's biodiversity strategy for 2030, and are the cornerstone of European legislation aimed at conserving the EU's wildlife. In this regard, Natura 2000<sup>39</sup>, the largest coordinated network of protected areas in the world, based on those directives, plays a central role. This is a key instrument for ensuring the long-term protection and conservation of Europe's most valuable and threatened species and habitats and the ecosystems they underpin. Given the massive decline in biodiversity, it is extremely urgent that the network be completed and effectively managed.

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<sup>35</sup> [COM\(2021\) 706 final](#).

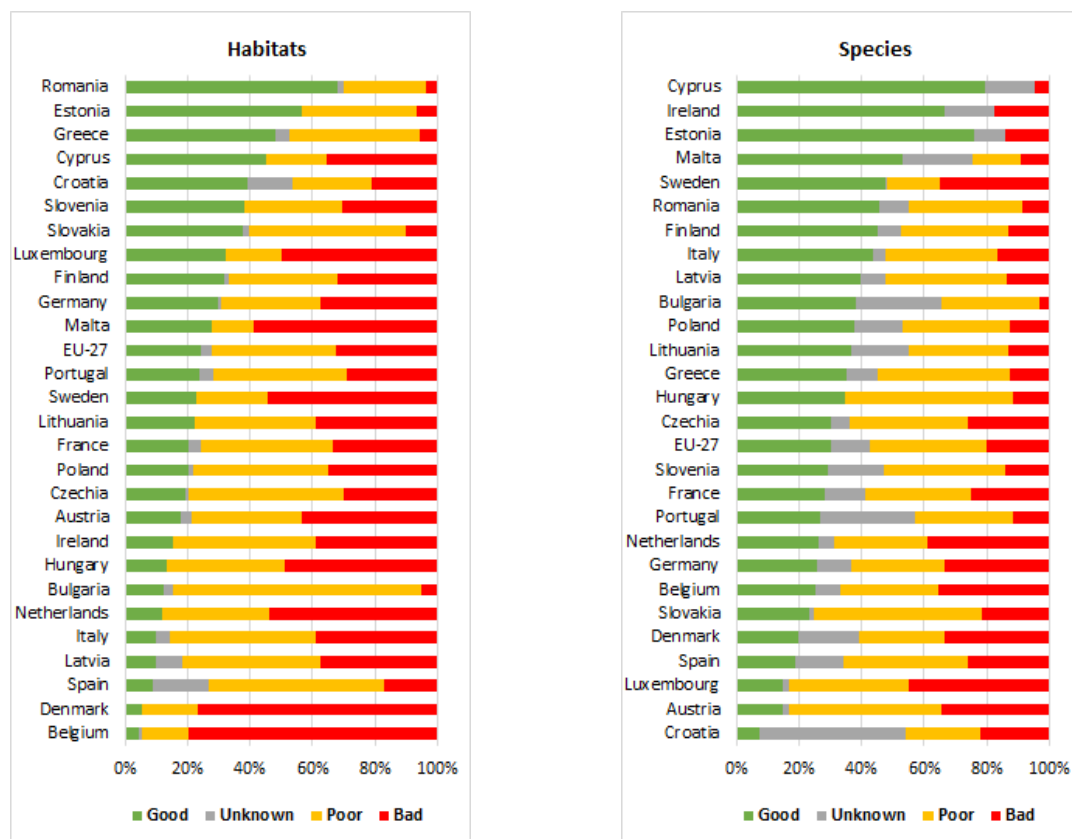
<sup>36</sup> [COM\(2021\) 699 final](#)

<sup>37</sup> Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora, OJ L 206, 22.7.1992, p.7-50.

<sup>38</sup> Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds, OJ L 20, 26.1.2010, p. 7–25.

<sup>39</sup> Natura 2000 comprises sites of Community importance (SCIs) designated under the Habitats Directive, as well as special protection areas (SPAs) classified under the Birds Directive.

Figure 3: Conservation status of habitats and species protected under the Habitats Directive at Member State level for the 2013-2018 reporting period<sup>40</sup>



### Findings

1. Despite significant efforts by Member States and some improvements, biodiversity in the EU continues to decline and shows deteriorating trends. Some of the habitats in the poorest condition across the EU are semi-natural grasslands, bogs, mires and fens. Despite a reduction over the last decade, net land take in the EU-27 still amounted to 83.8 m<sup>2</sup>/km<sup>2</sup> between 2012 and 2018.
2. Forests are under huge pressure. Of the 27% of EU forest area protected under the EU nature directives, less than 15% have a favourable conservation status and the number of forest habitats with a bad conservation status has increased.
3. Although the provisions of the Habitats and Birds Directives are long established and well-known, several Member States still fail to designate special areas of conservation<sup>41</sup> and to establish conservation objectives and measures<sup>42</sup>. Most of the Member States need to speed up efforts to complete their Natura 2000 networks, especially in the marine environment.
4. Biodiversity and ecosystems would greatly benefit from significant improvements to the overall common agricultural policy (CAP) and the new CAP strategic plans 2023-2027, support for the management of semi-natural grasslands, protection of ecosystem services and from efforts to re-introduce landscape features in areas where they have been lost.

<sup>40</sup> EEA [Report No 10/2020](#) "State of nature in the EU. Results from reporting under the nature directives 2013-2018", p. 44, fig. 3.8 and p. 50, fig. 3.13.

<sup>41</sup> Designation of special areas of conservation is incomplete for BG, CY, IE, PT.

<sup>42</sup> In the case of ES, BE, CZ, EL, DE, IT, PL, LT, LV, MT, SK, EE the conservation objectives are not correctly established. For AT, DK, FR, HU, FI, LV, NL, SI – additional measures to protect the sites are needed.



5. *Enforcement action at EU level has limited the damaging impacts of infrastructure projects and logging activities while contributing to species protection, expanding the Natura 2000 network and increasing the number of sites with a management plan in place.*
6. *Although the full implementation of the Regulation on invasive alien species (IAS Regulation) only started in 2019, it already delivers on its objectives, such as a coherent framework for addressing IAS at EU level and increased awareness of the problem of invasive alien species. However, challenges remain, as most Member States have not yet implemented the action plans to address the priority pathways required by Article 13 of the IAS Regulation.*
7. *Progress has been made across the EU on assessing the condition of, and pressures on, ecosystems and their services using the common EU methodology (MAES), and on ecosystem accounting. However, more support is needed to improve the performance of biodiversity monitoring and ensure consistent reporting, and to engage a critical mass of business players in order to demonstrate the benefits we gain from the EU's natural capital and the impacts thereon.*

#### **Successful practices:**

**Estonia** is one of the pioneers in wetland restoration. Estonia's expertise in promoting restoration will be very valuable under the Nature Restoration Law, demonstrating that restored wetlands can bring multiple benefits and co-exist with successful farming practices.

**Italy** has advanced environmental accounting, natural capital and wellbeing indicator practices, which are now bolstered through support from the Commission's Technical Support Instrument and the EIR peer to peer tool.

### **3.3. Towards zero pollution**

#### ***Air quality – Industrial emissions & safety (Seveso) – Noise***

The *Action Plan towards Zero Pollution for Air, Water and Soil*<sup>43</sup> sets out a 2050 vision to reduce air, water and soil pollution to levels no longer considered harmful to health and natural ecosystems, which respect the boundaries within which our planet can cope, thereby creating a toxic-free environment. This is translated into key 2030 targets to speed up the reduction of pollution at source.

The EIR examines compliance with the key obligations of the clean air quality legislation<sup>44</sup> in force<sup>45</sup>, which establishes health-based standards for emission concentrations and national emission reduction commitments for a number of air pollutants. Air pollution has a serious impact on human health and the environment. The place where you live has an impact on the risks to which you are exposed. Air pollution also negatively affects ecosystems, mainly through acidification, eutrophication and ozone damage, leading to biodiversity loss and reduced agricultural yields. In terms of trends in years of life<sup>46</sup> lost per 100 000 inhabitants for PM<sub>2.5</sub>, this has been reduced from 820 (2015) to 762 (2019) and for NO<sub>2</sub> from 157 (2015) to 99 (2019) in the EU-27. However, in many Member States the limit values for these pollutants are persistently exceeded, and are closely monitored by the Commission.

<sup>43</sup> [COM\(2021\) 400 final](#).

<sup>44</sup> European Commission, 2016. [Air Quality Standards](#).

<sup>45</sup> European Commission, [Reduction of National Emissions](#).

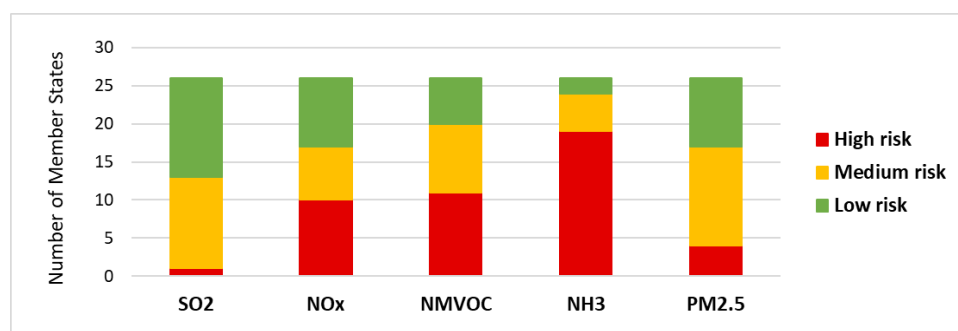
<sup>46</sup> European Environment Agency 2022; [Air Quality in Europe – 2021 Report](#).

As in 2019, the EIR takes a look at the Industrial Emissions Directive (IED)<sup>47</sup>, which covers about 52 000 agro-industrial installations across the EU. It presents new data for 2018, and for the first time emissions to water as well as to air: IED installations emit 20% of the total pollutants to air and a similar share to water<sup>48</sup>. Damage to health and the environment caused by air pollution from Europe’s industrial plants is estimated to cost between EUR 277 billion and EUR 433 billion in 2017, with about 200 facilities responsible for half of the damage<sup>49</sup>.

In the 2022 EIR, implementation data for the Seveso-III Directive<sup>50</sup> is presented for the first time. The Directive aims to control major accident hazards involving dangerous substances, especially chemicals, and contributes to the technological disaster risk reduction effort. Considering the very high rate of industrialisation in the EU, the Seveso Directive, which applies to around 12 000 industrial plants, has helped to lower the frequency of major accidents. The Directive is widely considered as a benchmark for industrial accident policy and has been a role model for legislation in many countries worldwide.

Environmental noise is the second major cause of premature death after air pollution, leading to 48 000 new cases of heart disease per year in the EU-27<sup>51</sup>. The Noise Directive<sup>52</sup> seeks to protect human health by requiring Member States to assess noise levels so that authorities and members of the public can choose the best solutions set out in mandatory action plans.

**Figure 4: Risk assessment for 2020-2029 emission reduction commitments<sup>53</sup>**



### Findings

1. *Despite improvements, air pollution is still a major health concern for Europeans. Where limits have persistently been exceeded, the Commission has been consistent in opening infringement proceedings for key pollutants, such as particulate matters and nitrogen dioxide<sup>54</sup>. In some of*

<sup>47</sup> Directive 2010/75/EU of the European Parliament and of the Council of 24 November 2010 on industrial emissions (integrated pollution prevention and control), OJ L 334, 17.12.2010, p. 17–119. The IED is being revised in order to make it more effective.

<sup>48</sup> European Commission, 2020 [Industrial Emissions Directive evaluation](#), p.5

<sup>49</sup> European Environment Agency, 2021, [Costs of air pollution from European industrial facilities 2008–2017](#), Table 1 on p.15, p16.

<sup>50</sup> Directive 2012/18/EU of the European Parliament and of the Council of 4 July 2012 on the control of major-accident hazards involving dangerous substances, amending and subsequently repealing Council Directive 96/82/EC, OJ L 197, 24.7.2012, p. 1–37.

<sup>51</sup> [European Environment Agency](#), 2020.

<sup>52</sup> Directive 2002/49/EC of the European Parliament and of the Council of 25 June 2002 relating to the assessment and management of environmental noise - Declaration by the Commission in the Conciliation Committee on the Directive relating to the assessment and management of environmental noise, OJ L 189, 18.7.2002, p. 12–25.

<sup>53</sup> Ricardo Energy & Environment, 2022, [Review of National Air Pollutant Projections and Assessment of National Air Pollution Control Programmes](#), 2022, p. 80, fig. 4-1.

<sup>54</sup> Pending for particulate matter 10 (PM<sub>10</sub>) - BG, CZ, EL, ES, FR, HR, HU, IT, PL, RO, SI, SK, SE. For particulate matter 2,5 (PM<sub>2.5</sub>)– HR and IT. Pending for nitrogen dioxide (NO<sub>2</sub>) - AT, BE, CZ, DE, EL, ES, FR, HU, IT, LU, PL, PT, RO.

these cases, the Court of Justice of the EU (CJEU) has already handed down judgments which make remedial action even more urgent<sup>55</sup>.

2. Member States need to fulfil air quality monitoring requirements in a systematic and consistent way in order to better inform clean air and biodiversity policies at EU and national level. Infringement cases against two Member States focus on shortcomings in monitoring networks<sup>56</sup>.
3. Meeting emission reduction commitments for ammonia (NH<sub>3</sub>) from agriculture, one of the five pollutants covered by the National Emission Reduction Commitments Directive, requires further efforts. The 2022 emission projections review<sup>57</sup> indicates that more than 70% of Member States are at high risk of non-compliance with 2020-2029<sup>58</sup> and 2030 onwards<sup>59</sup> emission reduction commitments for ammonia. Achieving compliance requires measures such as introducing low-emission agricultural techniques, including for livestock, manure and fertiliser management.
4. Around half of the Member States<sup>60</sup> are also considered to be at high risk of non-compliance with 2030 onwards emission reduction commitments for nitrogen oxides (NO<sub>x</sub>), particulate matter 2.5 µm size (PM<sub>2.5</sub>) and non-methane volatile organic compounds (NMVOCs).
5. One Member State has not yet submitted its national air pollution control programme<sup>61</sup>.
6. The transposition of the requirements applicable to industrial installations is belated. The Commission launched infringement proceedings against several Member States for failure to correctly transpose the Industrial Emissions Directive<sup>62</sup> and the Seveso-III Directive<sup>63</sup>.
7. There has been an improvement in the adoption of maps and action plans under the Noise Directive, but they are still lacking in several Member States<sup>64</sup> that are subject to infringement proceedings, some of which have been referred to the CJEU<sup>65</sup>.

### Successful practices

The LIFE integrated project PREPAIR (Po Regions Engaged to Policies of AIR)<sup>66</sup> in **Italy** covers the Po Valley with the regions and cities that have the greatest impact on air quality in the basin, extending into Slovenia. It lasts 7 years (2017-2024) and includes measures for biomass burning, energy efficiency, transport and agriculture – in line with the 2017 Po Basin Agreement and the air quality plans. One specific goal is to create a network of bike stations in the main cities of the Po Basin and to develop the accompanying infrastructure.

The LIFE integrated project LIFE-IP-HUNGAIRY<sup>67</sup> has the objective of decarbonising the Mátra power plant in **Hungary** by 2030, which uses lignite, leveraging in support from the Just Transition Fund through the cohesion policy, plus the Connecting Europe Facility and the Modernisation Fund. The decarbonising of the Mátra power plant is also an action under the 2020 Hungarian Climate and Environment Protection Action Plan.

**Czechia** has implemented a scheme for the replacement of obsolete and inadequate local heating

<sup>55</sup> BG, PL, HU, RO, IT, FR for particulate matters, and FR and DE for NO<sub>2</sub>.

<sup>56</sup> RO, SK.

<sup>57</sup> Ricardo Energy & Environment, 2022, [Review of National Air Pollutant Projections and Assessment of National Air Pollution Control Programmes](#), pp.85-6; N.B. Only 26 Member States are covered in this review as Romania has yet to submit its national air pollution control programme.

<sup>58</sup> AT, BG, CZ, DE, DK, EE, EL, FI, FR, HU, IE, IT, LU, LV, MT, NL, PL, PT, SE.

<sup>59</sup> AT, BG, CZ, DK, EE, EL, FR, HU, IE, IT, LT, LU, LV, MT, NL, PL, PT, SE, SI.

<sup>60</sup> 14 Member States for non-methane volatile organic compounds (NMVOCs); 13 Member States for particulate matter 2,5 (PM<sub>2.5</sub>); 12 Member States for nitrogen oxides (NO<sub>x</sub>).

<sup>61</sup> RO.

<sup>62</sup> AT, BG, CZ, DE, EL, IE, HR, SI, SK.

<sup>63</sup> AT, BG, CZ, DE, EE, FI, FR, HR, HU, IE, LT, LV, MT, PL, SI, SK.

<sup>64</sup> CY, CZ, DE, EL, ES, FR, IT, PT, PL, SK.

<sup>65</sup> with two judgements issued to date for SK and PT.

<sup>66</sup> LIFE [PREPAIR](#).

<sup>67</sup> LIFE [HUNGAIRY](#).

sources in households (Kotlíkova dotace), supported by EU funds. The scheme has supported the replacement of 100 000 boilers up until 2020, resulting in savings of 2.7 kT of PM<sub>2.5</sub> emissions and savings in energy consumption. These could be combined with additional national grants to increase energy efficiency in buildings (Nová zelená úsporám).

### ***Water quality and management***

The protection of water resources and dependent ecosystems, as well as the availability of a clean water supply, are fundamental to human existence, the economy (water fuels all economic sectors) and sustainable development, as well as our environment. The proper implementation of the rules in force is essential to people's quality of life and welfare. It also has great potential in terms of economic growth and job creation.

For those reasons, EU water policy is one of the priorities set out in the European Green Deal<sup>68</sup>. To that end, the Commission works closely with the Member States to help achieve the objectives of preserving, protecting and improving the quality of our water resources.

The main instruments are the Water Framework Directive<sup>69</sup> and its associated directives, the Floods Directive<sup>70</sup>, the Drinking Water Directive<sup>71</sup>, the Bathing Water Directive<sup>72</sup>, the Nitrates Directive<sup>73</sup>, the Urban Waste Water Treatment Directive<sup>74</sup> and the Marine Strategy Framework Directive (MSFD)<sup>75</sup>. The different fitness checks carried out so far show that the Water Directives are broadly fit for purpose but require better overall implementation.

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<sup>68</sup> In September 2021, the Commission launched the EU mission on *restore our ocean and waters by 2030*, as a way to achieve the marine and freshwater targets of the European Green Deal, such as protecting 30% of the EU's sea area and restoring marine eco-systems and 25,000 km of free-flowing rivers.

<sup>69</sup> Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy, OJ L 327, 22.12.2000, p. 1–73.

<sup>70</sup> Directive 2007/60/EC of the European Parliament and of the Council of 23 October 2007 on the assessment and management of flood risks, OJ L 288, 6.11.2007, p. 27–34.

<sup>71</sup> Directive (EU) 2020/2184 of the European Parliament and of the Council of 16 December 2020 on the quality of water intended for human consumption, OJ L 435, 23.12.2020, p. 1–62.

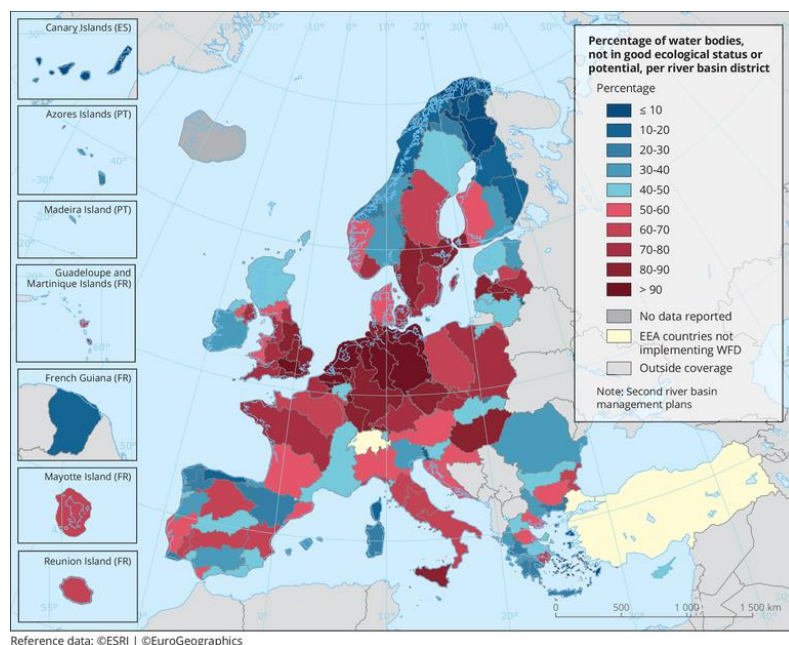
<sup>72</sup> Directive 2006/7/EC of the European Parliament and of the Council of 15 February 2006 concerning the management of bathing water quality and repealing Directive 76/160/EEC, OJ L 64, 4.3.2006, p. 37–51.

<sup>73</sup> Council Directive 91/676/EEC of 12 December 1991 concerning the protection of waters against pollution caused by nitrates from agricultural sources, OJ L 375, 31.12.1991, p. 1-8.

<sup>74</sup> Council Directive 91/271/EEC of 21 May 1991 concerning urban waste-water treatment OJ L 135, 30.5.1991, p. 40–52. The Commission presented a proposal to further modernise this 1991 directive to improve pollution prevention, resource efficiency and energy neutrality for the whole sector.

<sup>75</sup> Directive 2008/56/EC of the European Parliament and of the Council of 17 June 2008 establishing a framework for community action in the field of marine environmental policy (Marine Strategy Framework Directive), OJ L 164, 25.6.2008, p. 19–40.

**Figure 5: Proportion of surface water bodies (rivers, lakes, transitional and coastal waters) with less than good ecological status per River Basin District<sup>76</sup>**



## Findings

1. *Implementation of the Water Framework Directive objectives continues but, although the assessment of the third river basin management plans (RBMPs) is pending, it can be said that progress towards achieving good status for water bodies is generally slow, despite the fact that the 2027 deadline is drawing near. This is due to a mix of factors: failure to set reference conditions for the characterisation of water bodies and incomplete assessment of pressures, insufficiencies in the monitoring of water, meaning that the status of water bodies is unknown, assessments of the impact of activities on water bodies are incorrectly performed, and the exemptions invoked are not sufficiently justified.*
2. *The country reports present the latest information on the percentage of water bodies not achieving good ecological and chemical status, the abstraction of water per sector as well as the water exploitation index<sup>77</sup>. Increased investments are essential if those objectives are to be met, and EU funding continues to support those implementation efforts, mainly through the cohesion policy, the Recovery and Resilience Facility, and Horizon Europe.*
3. *The Commission has shared its findings<sup>78</sup> on the second RBMPs with the Member States in question, and expects to see the shortcomings addressed when the third RBMPs are submitted. The Commission is also verifying how the national systems (e.g. permits and inspections) ensure that the Water Framework Directive is correctly applied on the ground by each Member State as regards abstraction of water, point source and diffuse pollution. The Member States were due to report to the Commission their RBMPs and flood risk management plans (FRMPs) by 22 March 2022. The Commission is concerned that many Member States have not yet met their legal reporting obligations<sup>79</sup> and is ready to act on findings of non-compliance as appropriate.*

<sup>76</sup> European Environment Agency, [2021](#).

<sup>77</sup> The EU average is 8.39, below the 20% scarcity threshold, but the situation is more concerning in a few Member States such as CY, EL, ES, CZ, MT.

<sup>78</sup> EU pilots on the implementation of Water Framework Directive 2000/60/EC concerning shortcomings identified in the Commission's assessment of the 2nd river basin management plans: AT, BG, CY, CZ, DK, EE, EL, FR, HR, HU, IE, IT, LT, LU, LV, MT, PL, PT, RO, SE, SI, SK.

<sup>79</sup> [https://ec.europa.eu/environment/water/participation/map\\_mc/map.htm](https://ec.europa.eu/environment/water/participation/map_mc/map.htm);  
[https://ec.europa.eu/environment/water/flood\\_risk/implem.htm](https://ec.europa.eu/environment/water/flood_risk/implem.htm).



4. *The 1998 Drinking Water Directive is well implemented overall in the EU. However, it is a cause for concern in a few countries<sup>80</sup>. By 12 January 2023, all Member States have to transpose the recast Directive in order to comply with the revised quality standards and the Commission is providing support in order to ensure the timely and correct transposition of the new rules.*
5. *Overall, the Bathing Water Directive shows high rates of excellent or good performance in the EU. However, there are some differences between Member States<sup>81</sup>.*
6. *In many cases, despite sometimes well-defined and specific obligations such as those in the Nitrates Directive and the Urban Waste Water Treatment Directive, implementation on the ground has been very slow, due to planning and organisational flaws and a lack of funding and prioritisation, in spite of the Commission's supportive approach (such as securing substantial EU funding). These issues are late to become priorities at national level, sometimes after a second judgment of the CJEU.*
7. *Many Member States have problems in relation to the implementation of the Nitrates Directive and should step up their efforts to further reduce nitrate pollution from agriculture in groundwater and eutrophication by designating all nitrate-vulnerable zones and by including appropriate measures in their action plans<sup>82</sup>.*
8. *Despite a degree of progress, urban wastewater is still not collected and treated as it should be in many Member States, which is why most of them are still facing infringement proceedings<sup>83</sup> and a few have been subjected to financial penalties<sup>84</sup>. Progress depends on Member States prioritising investments for wastewater collecting systems and treatment plants, including through efficient use of the cohesion policy funding where available, and European Investment Bank loans.*
9. *The progress on the MSFD appears in the country reports in the biodiversity chapter due to its importance to the protection of the marine environment. The Commission looked into the advancement on the assessment of the status of the EU marine waters and the regional cooperation between Member States sharing the same marine sub-region to address predominant pressures.*

### Successful practices

**The Netherlands'** approach to flood risk management (where possible restoring the riverbeds and flood plains of the Rhine and the Meuse) proved to be effective during the floods that also hit Belgium and Germany in July 2021.

**Portugal** has recently approved a policy to produce reclaimed water to be used for multiple non-potable purposes.

To improve the aquatic environment, **Sweden** is providing grants for investments that minimise microplastics and other emerging pollutants (pharmaceuticals) via storm water.

### Chemicals

The EU chemicals legislation<sup>85</sup> seeks to ensure that chemicals are produced and used in a way that minimises any significant adverse effects on human health and the environment. It also ensures stability and predictability for businesses operating within the internal market. Furthermore, as part of

<sup>80</sup> FR, HU, IR and IT.

<sup>81</sup> An evaluation of this Directive is ongoing, and the Commission plans to present an overall assessment on its functioning in 2023.

<sup>82</sup> Infringements are pending against: BE, DE, ES, IT.

<sup>83</sup> Infringement procedures for bad application of the UWWTD are currently ongoing for 19 Member States: BG, BE, CY, FR, GR, HU, IR, IT, LV, LT, MT, PL, PT, RO, SK, CZ, SI, SE and ES.

<sup>84</sup> GR, IT and ES are currently paying fines regarding the UWWTD.

<sup>85</sup> REACH: OJ L 396, 30.12.2006, p.1. - CLP: OJ L 252, 31.12.2006, p.1.



the EU's zero pollution objective under the European Green Deal, on 14 October 2020 the European Commission published the *Chemicals strategy for sustainability / Towards a toxic-free environment*<sup>86</sup>, which aims to increase protection for citizens and the environment and to boost innovation for safe and sustainable chemicals.

The transition to a low-carbon circular economy provides excellent opportunities to boost safe and environmentally-sustainable chemistry. The focus of innovation should be on 'safe by design' products compatible with clean material cycles, using fewer and less harmful chemicals. In the circular economy, materials may end up being used for purposes very different to the purpose originally intended and for which they were risk-assessed. This highlights the need to focus on the quality of clean materials as a prerequisite for achieving ambitious, quantitative recycling targets<sup>87</sup>.

However, coordinated enforcement projects<sup>88</sup> carried out in the context of the Forum for Exchange of Information on Enforcement have shown that more could be done to make enforcement more effective, especially with regard to registration obligations and safety data sheets, which show a rather high level of non-compliance. ECHA has sought to remedy this by systematically screening registrations, and meanwhile REACH has been updated to clarify when registrants must update ECHA on any relevant changes. The latest project on online sales<sup>89</sup>, revealed a significant degree of non-compliance in products sold online. In light of the conclusions of the reports below, the Commission is also exploring the feasibility of establishing a European Auditing Capacity to ensure more homogeneity in enforcement between the Member States.

For the first time, the EIR reports examine the state of implementation of the Regulation on the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH)<sup>90</sup> and Classification, Labelling and Packaging Regulation (CLP)<sup>91</sup>. This is based on the Commission's assessment<sup>92</sup> of the reports produced by the national authorities under Article 117(1) REACH and Article 46(2) CLP. In August 2021, the Commission published a measurable assessment of the enforcement<sup>93</sup> of the two main EU Regulations on chemicals using a set of indicators on different aspects of enforcement.

## Findings

1. *Enforcement of REACH and CLP improved as compared to 2010-2012. The recorded compliance levels seem to be quite stable over time, while the enforcement authorities seem to be more effective in detecting non-compliant products/companies and non-compliant products placed on the EU market. In particular, the number of appeals and overturned decisions on CLP fell, the ratio between penalties and cost of compliance grew, more inspectors were trained in the EU and the Forum for Exchange of Information on Enforcement increased its output.*

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<sup>86</sup> [COM\(2020\) 667 final](#).

<sup>87</sup> EEA Scientific Committee Report '[Chemicals for a sustainable future](#)', page 14.

<sup>88</sup> ECHA, on the basis of the projects [REF-1](#), [REF-2](#), [REF-3](#) and [REF 4](#).

<sup>89</sup> ECHA homepage under FORUM [REF 8 \(2021\)](#).

<sup>90</sup> Commission Regulation (EU) 2020/878 of 18 June 2020 amending Annex II to Regulation (EC) No 1907/2006 of the European Parliament and of the Council concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), OJ L 203, 26.6.2020, p. 28–58.

<sup>91</sup> Regulation (EC) No 1272/2008 of the European Parliament and of the Council of 16 December 2008 on classification, labelling and packaging of substances and mixtures, amending and repealing Directives 67/548/EEC and 1999/45/EC, and amending Regulation (EC) No 1907/2006, OJ L 353, 31.12.2008, p. 1–1355.

<sup>92</sup> European Commission, Final Report, on the operation of REACH and CLP, Final report\_REACH-CLPMSreporting\_2020.pdf (europa.eu)

<sup>93</sup> [European Commission, REACH and CLP enforcement: EU level enforcement indicators](#).

2. *Around 70% of REACH controls lead to enforcement measures. The most frequently used enforcement measure is written advice (11%), followed by administrative measures (4%) and verbal advice (2%). Nine countries have carried out follow-up actions in relation to evaluation during the reporting period<sup>94</sup>.*
3. *The most important type of sanctions used are fines, and to a lesser extent referral to the prosecutor's office for violation of both REACH and CLP. Suspension or revocation of business licences has rarely been used as a sanction. The situation varies greatly between countries. For instance, nearly three quarters of referrals to the state prosecutor's office for breaches of REACH during the reporting period have been reported by just two Member States (Germany and Sweden).*
4. *Most countries have drawn up and at least partially implemented both a REACH and a CLP enforcement strategy. Only four countries - Croatia, Latvia, Poland and Belgium - have not yet drawn up a REACH strategy. Croatia, Latvia, Poland and Malta have not implemented a CLP enforcement strategy.*

### Successful practices

The Nordic Working Group for Chemicals, Environment, and Health meets annually to discuss the enforcement of chemicals legislation, has an inspector exchange programme and conducts joint enforcement projects between **Nordic countries** (Denmark, Finland, Iceland, Norway and Sweden as well as the Faroe Islands, Greenland and the Åland Islands).

Cooperation on online trade between **Austria, Germany and Switzerland** and the International Nano Authorities Dialogue - a platform bringing together environmental, health and safety authorities from **Austria, Germany, Liechtenstein, Luxembourg and Switzerland** and various stakeholders (NGOs, associations, companies) for informal exchange of knowledge and experience on the safe and sustainable use of nanotechnology.

LIFE project 'Chemicals Regulations Enforcement & Inspections - CHEREE' between **Greece and Cyprus**, which aims to increase the efficiency of REACH enforcement through a common inspection protocol; common visits and pilots; the creation of an 'Inspectors e-Centre' and of a 'Reach e-learning tool' to exchange knowledge and experience among inspectors and relevant authorities.

### 3.4. Climate action

In line with the Paris Agreement<sup>95</sup> and as part of the European Green Deal, the 2021 European Climate Law<sup>96</sup> sets the EU's target of achieving climate neutrality by 2050 and reducing its net greenhouse gas emissions by at least 55% by 2030 compared to 1990. The Law also limits the contribution that carbon removals can make towards emissions reductions in 2030 in order to ensure that there is a sufficient mitigation effort.

Since the 2019 EIR, climate legislation has been adopted to incentivise emissions reductions from transport, the maritime sector and fluorinated gases (F-gases) used in products. In road transport,

<sup>94</sup> BE, DE, ES, FI, GR, IR, IT, NL and SE.

<sup>95</sup> [Paris Agreement text English \(unfccc.int\)](https://unfccc.int/paris-agreement)

<sup>96</sup> Regulation (EU) 2021/1119 of the European Parliament and of the Council of 30 June 2021 establishing the framework for achieving climate neutrality and amending Regulations (EC) No 401/2009 and (EU) 2018/1999 ('European Climate Law'), OJ L 243, 9.7.2021, p. 1–17.

current EU legislation requires the greenhouse gas intensity of vehicle fuels to be cut by 6% by 2020 compared to 2010 and sets the greenhouse gas emission standards to be respected for different vehicle categories. Thanks to the current F-gas Regulation<sup>97</sup>, the EU's F-gas emissions will be cut by two thirds by 2030 compared with 2014 levels. From 2021, emissions and removals of greenhouse gases from land use, land-use change and forestry (LULUCF) have been included in EU emissions reduction efforts.

The EU adaptation policy is an integral part of the European Green Deal. Since 2021, Member States were required to report on their national adaptation policies. The European Climate Law recognises adaptation as a key component of the long-term global response to climate change. It requires Member States and the EU to enhance their adaptation action by introducing a requirement for the implementation of national strategies and regular progress assessments as part of the overall EU governance on climate and energy action. In February 2021, the updated EU adaptation strategy<sup>98</sup> set out how the EU can adapt to the unavoidable impacts of climate change and become climate resilient by 2050.

This EIR reviews the national climate policies and strategies, in particular the national energy and climate plans and adaptation strategies. It then looks at emissions outside of the Emission Trading Scheme (ETS), where Member States have binding national targets under the effort sharing legislation<sup>99</sup>. This is followed by an examination of key sectoral developments, notably for road transport, buildings and land use, land-use change and forestry. The use of revenue from the auctioning of the ETS by Member State is presented. Priority actions by country are presented for the first time.

### *Findings*

- 1. Overall, there is a good level of implementation of EU climate legislation throughout the EU.*
- 2. In 2020, EU-27 domestic greenhouse gas emissions, including in international aviation, were down by 31% from 1990 levels and reached their lowest level in 30 years. If emissions and removals from the LULUCF sector are included, this results in a net emissions reduction of 34%. The EU has thus substantially exceeded its target under the UN Framework Convention on Climate Change (UNFCCC) of reducing greenhouse gas emissions by 20% by 2020 compared to 1990.*
- 3. Since the effort sharing system for sectors not included in the EU Emission Trading System (such as transport, non-ETS industry, buildings, agriculture and waste) was launched in 2013, EU-wide emissions have been below the overall limit each year.*
- 4. The Effort Sharing Decision (ESD)<sup>100</sup> sets national emission targets for 2020, expressed as percentage changes from 2005 levels. It also sets annual emission allocations (AEAs) which Member States must respect. Similarly, the successor Effort Sharing Regulation (ESR)<sup>101</sup> sets national emission targets for 2030 and AEAs for the period 2021-2030.*
- 5. EU-27 emissions covered by the ESD were almost 11% lower in 2019 compared to 2005. The 2020 target (-8%) was therefore already exceeded before the COVID-19 crisis. All Member States*

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<sup>97</sup> Regulation (EU) No 517/2014 of the European Parliament and of the Council of 16 April 2014 on fluorinated greenhouse gases and repealing Regulation (EC) No 842/2006, OJ L 150, 20.5.2014, p. 195–230.

<sup>98</sup> [COM/2021/82 final](#).

<sup>99</sup> The Effort Sharing legislation forms part of a set of policies and measures on climate change and energy that will help move Europe towards a low-carbon economy and increase its energy security ([https://ec.europa.eu/clima/eu-action/effort-sharing-member-states-emission-targets\\_en](https://ec.europa.eu/clima/eu-action/effort-sharing-member-states-emission-targets_en)).

<sup>100</sup> Decision No 406/2009/EC of the European Parliament and of the Council of 23 April 2009 on the effort of Member States to reduce their greenhouse gas emissions to meet the Community's greenhouse gas emission reduction commitments up to 2020, OJ L 140, 5.6.2009, p. 136–148.

<sup>101</sup> Regulation (EU) 2018/842 of the European Parliament and of the Council of 30 May 2018 on binding annual greenhouse gas emission reductions by Member States from 2021 to 2030 contributing to climate action to meet commitments under the Paris Agreement and amending Regulation (EU) No 525/2013, OJ L 156, 19.6.2018, p. 26–42.

*met their obligations under the ESD in 2013-2018. Some Member States needed to mobilise the flexibility mechanisms in the legislation in order to meet their current obligations. Member States are planning, adopting and implementing policies and measures to achieve their effort-sharing targets under the current ESR. There is a strong and imminent need for Member States to plan and implement additional climate action in the effort-sharing sectors in order to reflect the increased ambition under the proposed reviewed ESR.*

6. *The EU ETS has a very high compliance rate, as each year installations cover around 99% of their emissions with the required number of allowances. The system presently covers around 36% of the EU's total greenhouse gas emissions from close to 9 500 power stations and manufacturing plants (i.e. stationary installations), and flights within the European Economic Area. In total, by 2020, EU ETS emissions from stationary installations had already fallen by 43% since 2005.*
7. *By 2020, all Member States had put in place a national adaptation strategy or plan. Adaptation efforts in each Member State and at EU level need to be intensified, as climate impacts appear to be at the worst end of the spectrum that had been projected, and will increasingly manifest in cascading and compound risks as well. Meanwhile, the implementation of adaptation has lagged behind. Appropriate action to prevent and/or minimise the damage that can be caused by climate change brings significant economic and social benefits<sup>102</sup>.*

### Successful practices

**Denmark's** recovery and resilience plan (RRP) promotes the green tax reform. The RRP is expected to make a significant contribution to the implementation of the reform by financing a tax-subsidised 'investment window' to create an incentive for companies to accelerate their green investments, for example in software to make logistics chains more resource-efficient.

**Estonia's** climate ambition has steadily increased over the years, shifting away from a heavy reliance on oil shale. The Estonian government has undertaken to phase out oil-shale-based electricity production by 2035 and oil shale in the energy sector completely by 2040.

### 3.5. Financing environmental implementation

To be successful, it is essential that full environmental implementation is properly funded. The majority needs to be supported via Member States' public spending and the private funds of economic operators, but EU funds make an important contribution in terms of steering implementation and helping to meet the EU's environmental investment needs, which are still significant. The 2020 European Green Deal investment plan interlinks environmental funding and investments and mobilises EUR 1 trillion in green investments (public and private) over the decade, backed by the EU budget for 2021-2027<sup>103</sup>. Since 2021, further to the substantial funding available through the cohesion policy under the multiannual financial framework, environmental implementation has also been supported by the Recovery and Resilience Facility (RRF), under which the reforms and investments must respect the 'do no significant harm' principle. The EU Taxonomy of sustainable activities<sup>104</sup> and other sustainable finance initiatives will help increase transparency, mainstream environmental considerations and redirect financial flows towards the six environmental objectives in the case of private investments.

<sup>102</sup> International Panel on Climate Change, 2022, [Climate Change 2022: Impacts, Adaptation and Vulnerability](#).

<sup>103</sup> It will contribute at least 30% to climate objectives, and 7.5% in 2024 and 10% in 2026 and 2027 to biodiversity.

<sup>104</sup> Regulation (EU) 2020/852 of the European Parliament and of the Council of 18 June 2020 on the establishment of a framework to facilitate sustainable investment, and amending Regulation (EU) 2019/2088, OJ L 198, 22.6.2020, p. 13–43.

For the first time, the EIR looks into the investment needs of environmental implementation and compares these with the resources made available so far, responding to the mandate given in the 2020 European Green Deal Investment Plan.

### *Findings*

- 1. The overall level of financing for environmental investments<sup>105</sup> (from national and EU sources combined) in 2014-2020 was estimated at between 0.6 and 0.7% of GDP (for 2014-2020) in the EU-27, 14% of which comes from EU funding. In some countries (e.g. Croatia, Greece, Slovakia, Romania), close to or over 50% comes from EU funding. As an EU average, half of the total financing (53%) came from public sources (EU funds and national public sources combined), and over two thirds in the case of some 10 countries, thus demonstrating the importance of public financing sources.*
- 2. As a comparison, the EU-level annual environmental investment needs for the 2021-2027 programming period are currently estimated to be in the range of 0.9-1.5% of projected 2021-2027 GDP<sup>106</sup>, indicating a considerable investment gap (0.6-0.8% of GDP, amounting to EUR 76-110 billion per year, though varying widely between Member States)<sup>107</sup> that needs to be addressed in order to ensure the effective implementation of the environmental priorities and to support the EU's green transition.*
- 3. Almost two thirds of the environmental investment gap relate to tackling general pollution and protecting and managing our water bodies. The investment gap for the circular economy and waste is estimated at between EUR 13 bn and EUR 28 bn per year, depending on the ambition levels of circularity to be achieved. The annual biodiversity financing gap is estimated at around EUR 20 bn.*
- 4. The additional investment needs above baselines for climate, energy and transport have been estimated at EUR 390 billion per year (EU-27), with a further EUR 130 billion per year to achieve the EU's core environmental objectives. Climate adaptation costs can also be significant, ranging from EUR 35-62 billion (narrower scope) to EUR 158-518 billion (wider scope) per year. Those investment needs reflect the implementation objectives to 2020 and to 2030 (while climate adaptation costs are expected to linger on for a longer period of time).*
- 5. The largest share of green investments (71%) in the RRFs have been allocated to sustainable mobility, building renovation and energy efficiency as well as renewable energy and energy networks. In contrast, biodiversity, circular economy, water and pollution prevention and control accounted for just 13% of the total green contribution<sup>108</sup>. The green investments allocated to climate, energy and transport support significantly the environmental objectives, for example to make Europe's air cleaner. However, they will not meet, for instance, the significant needs in water and waste infrastructure and management. Moreover, several Member States chose not to prioritise measures directly benefiting biodiversity<sup>109</sup>.*
- 6. The overall EU funds, covering the multiannual financial framework (MFF 2021-2027) and NextGenerationEU (NGEU), will mobilise EUR 2.018 trillion in current prices to support the recovery from the COVID-19 pandemic and the EU's long-term priorities, including environmental protection. 30% of the MFF will be dedicated to climate action and 7.5% to biodiversity (in 2024), which then increases to 10% in 2026 and 2027. Under NGEU, the RRF will dedicate at least 37% to climate action.*

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<sup>105</sup> Green finance includes climate finance, but also financing of specific environmental objectives, such as industrial pollution control, water management and biodiversity protection. Given its scope, the EIR looks at these separately.

<sup>106</sup> Or 1.0-1.6% of the 2014-2020 EU-level GDP.

<sup>107</sup> Source: DG Environment.

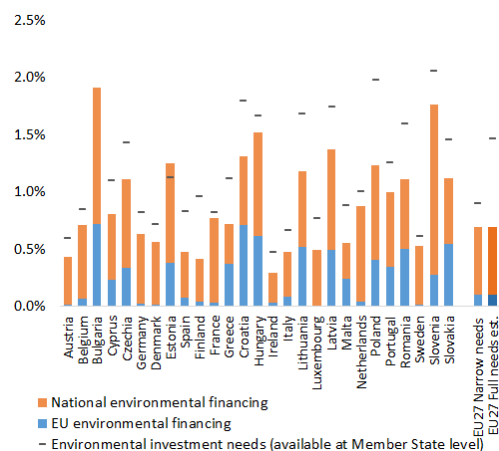
<sup>108</sup> The contributions to climate and environmental objectives are based on the methodology outlined in Annex VI of the RRF Regulation.

<sup>109</sup> CY, CZ, DE, DK, EE, FI, LT, LV, MT, PT, SK.

**Table 1: Estimated breakdown of the EU’s additional environmental investment needs**

Environmental objective	Estimated investment gap (EU27, p.a.)	
	EUR billion	%
Pollution prevention & control	42.8	38.9%
Water protection, management and industries	26.6	24.2%
Circular economy & waste	13.0	11.8%
Biodiversity & ecosystems	21.5	19.6%
R & D & I and other	6.2	5.7%
<b>Total</b>	<b>110.1</b>	<b>100%</b>

**Figure 6: Total environmental financing (2014-2020) and estimates of needs (2021-2027) in the EU27 (% of GDP)<sup>110</sup>**



### Successful practices

Under its recovery and resilience plan, **Greece** is making important investments in reforestation, biodiversity, wildfires management, flood mitigation and irrigation network upgrades, complemented by reforms promoting sustainable landfilling and recycling. **Croatia** aims to improve flood protection using nature-based solutions, such as revitalising watercourses, connecting abandoned sleeves, creating secondary wetland habitats, and removing invasive species.

**Malta**, together with **Estonia**, **Greece**, **Latvia**, **Romania** and **Slovakia**, have incorporated a *pay as you throw* tax that applies to the weight or volume of waste generated by households and businesses and collected by the waste collection authorities. That instrument supports the waste prevention principle.

**Germany**, **France** and **Sweden** stood out with a high level of green bond issuances in 2020.

**Italy** made progress on the tracking and reporting of the environmental impacts of its national budget (green budgeting). Since 2000, Italy has developed reporting on planned expenditure on environmental protection and resource management. The reporting also incorporated 12 indicators on fair and sustainable wellbeing in accordance with the SDGs and targets of Agenda 2030.

### 3.6. Environmental governance

Environmental governance is a broad concept that includes integrating environmental considerations into decision-making, public participation, access to justice, sharing of information and reporting, environmental compliance assurance and addressing environmental liabilities. It also covers how public authorities check and ensure compliance on the ground through enforcement. Under the European Green Deal, all EU actions and policies will have to contribute to the achievement of its objectives. It explicitly states that the Commission will take action to improve access to justice for citizens and NGOs before national courts. In that respect, the instruments of environmental governance were developed with a view to achieving the European Green Deal objectives on climate neutrality, protection and restoration of ecosystems and biodiversity, zero pollution and the circular

<sup>110</sup> Eurostat, [ESI Funds Open Data](#), 2021.



economy<sup>111</sup>. To the same end, on 14 December 2021, the Commission adopted a proposal for a new directive on environmental crime<sup>112</sup> aiming to protect the environment more efficiently through criminal law measures at national level. The new Directive will replace Directive 2008/99/EC and sets new EU environmental criminal offences, clarifies existing ones, proposes additional sanctions for environmental crimes, and aims to ensure effective investigations and criminal proceedings as well as to help cross-border investigation and prosecution.

The main obligations and topics covered in this third EIR are based on the requirements of the INSPIRE Directive<sup>113</sup>, the environmental impact assessments<sup>114</sup>, access to justice in environmental matters in domestic courts, sanctions and environmental compliance assurance, and the Environmental Liability Directive<sup>115</sup>.

In addition to its enforcement action, the Commission has encouraged the streamlining of environmental assessments in order to reduce duplication and avoid overlaps when authorising projects. Streamlining helps to reduce unnecessary administrative burdens and speeds up decision-making, provided it does not compromise the quality of the environmental assessment. It is also essential that while making procedures more efficient, the standards of participatory rights, including on public participation and access to justice in environmental matters, are respected in line with the EU secondary law<sup>116</sup> and the case-law of the Court of Justice of the EU<sup>117</sup>.

The Commission has also supported capacity-building in order to enhance the implementation capacities of both national authorities and NGOs<sup>118</sup>. The country reports present some of these efforts that are deployed through the Technical Support Instrument and the TAIEX EIR peer-to-peer programme, as illustrated in the figure below.

### Findings

1. *Despite improvements in implementing the INSPIRE Directive, particularly in Estonia, Germany, Lithuania, Luxembourg, Malta, Slovenia and Spain, it remains challenging for most Member States to ensure better data-sharing, which would provide the public with a higher level of transparency and supports the implementation of environmental policies.*
2. *Ensuring effective access to justice at national level is essential to the implementation of environmental law. The Commission has taken action to make sure that environmental NGOs and members of the public can seek review of measures to tackle air pollution<sup>119</sup>, or of extensions*

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<sup>111</sup> E.g. the EU Biodiversity Platform, the Knowledge Centre for Biodiversity, new trackers and dashboards under the biodiversity strategy, the circular economy action plan and the zero pollution initiative. The 8th environmental action programme also includes an integrated monitoring framework.

<sup>112</sup> [Protection of the environment through criminal law \(europa.eu\)](#).

<sup>113</sup> Directive 2007/2/EC of the European Parliament and of the Council of 14 March 2007 establishing an Infrastructure for Spatial Information in the European Community (INSPIRE), OJ L 108, 25.4.2007, p. 1–14.

<sup>114</sup> Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on the assessment of the effects of certain public and private projects on the environment as amended by: Directive 2014/52/EU of the European Parliament and of the Council of 16 April 2014 OJ L 124, 25.4.2014; Directive 2001/42/EC of the European Parliament and of the Council of 27 June 2001 on the assessment of the effects of certain plans and programmes on the environment OJ L 197, 21.7.2001.

<sup>115</sup> Directive 2004/35/CE of the European Parliament and of the Council of 21 April 2004 on environmental liability with regard to the prevention and remedying of environmental damage, OJ L 143, 30.4.2004, p. 56-75.

<sup>116</sup> Article 6(2) of the Access to Environmental Information Directive, 2003/4/EC; Article 13 of the Environmental Liability Directive, 2004/35/EC; Article 25 of the Industrial Emissions Directive, 2010/75/EU; Article 11 of the Environmental Impact Assessment Directive, 2011/92/EU; and Article 23 of the Seveso III Directive, 2012/18/EU. See also recital 27 of the National Emissions Ceiling Directive, (EU) 2016/2284, which makes a specific reference to the case-law of the CJEU on access to justice.

<sup>117</sup> See in particular the Commission Notice on access to justice in environmental matters (2017/C 275/01, OJ C 275, 18.8.2017, p. 1–39).

<sup>118</sup> In particular through the LIFE Governance programme.

<sup>119</sup> PL and BG.

of mining permits<sup>120</sup> or hunting derogations<sup>121</sup>. Enforcement action has also sought to ensure access to justice in the application of the Environmental Liability Directive. However, there is still room for improvement in most Member States in terms of improving the public's access to courts in order to challenge decisions, acts or omissions, particularly in the areas of planning relating to water, nature and/or air quality<sup>122</sup>.

3. Most Member States also need to keep the public better informed about their access to justice rights<sup>123</sup>. Better public access to environmental information and the dissemination of that information would help to increase awareness of environmental matters and ensure more effective participation by the public in environmental decision-making and, eventually, result in a better environment.
4. Moreover, in several countries further actions and/or monitoring efforts are needed to ensure that costs do not hinder effective access to justice in environmental matters<sup>124</sup>.
5. Regional and local fragmentation remains a challenge to environmental governance in Hungary, Italy, Luxembourg and Spain. This needs to be tackled, in particular by developing better environmental coordination mechanisms.
6. The Environmental Impact Assessment Directive was revised in 2014 to reduce administrative burdens and improve environmental protection, while making public and private investment decisions more sound, predictable and sustainable. Most Member States<sup>125</sup> seized this opportunity to streamline their regulatory framework for environmental assessments. However, enforcement action was required in order to ensure that the Directive was correctly transposed in all Member States<sup>126</sup>.

#### Successful practices

In **Latvia**, the Ministry of Environmental Protection and Regional Development provides an overview of the environmental impact assessment procedure on its website. The Environmental Monitoring Bureau provides project-level information on who has submitted a proposal, links to where documents can be accessed, and information on when and where public consultation hearings will take place. Comprehensive information on completed EIAs is also published, and the website includes an infographic detailing the entire procedure for carrying out an EIA, along with a brief explanation of its purpose.

Several Member States have established specialized environmental review bodies or courts. Existing examples include the **Swedish** Land and Environment Court, the **Finnish** Administrative Court, the **Danish** Nature Protection and Environmental Board of Appeal, the **Maltese** Environment and Planning Review Tribunal, the **Irish** Planning Board and the **Belgian** Council for Permit Disputes ('Raad voor Vergunningsbetwistingen'). Most recently, an environmental section ("chambre de l'environnement") was established in the Court of Appeal of Mons in **Belgium** for both civil and criminal cases.

<sup>120</sup> PL.

<sup>121</sup> LT.

<sup>122</sup> AT, BG, CY, CZ, DE, DK, EE, EL, FI, HR, HU, IE, IT, MT, NL, PL, RO, SK, SE, SI.

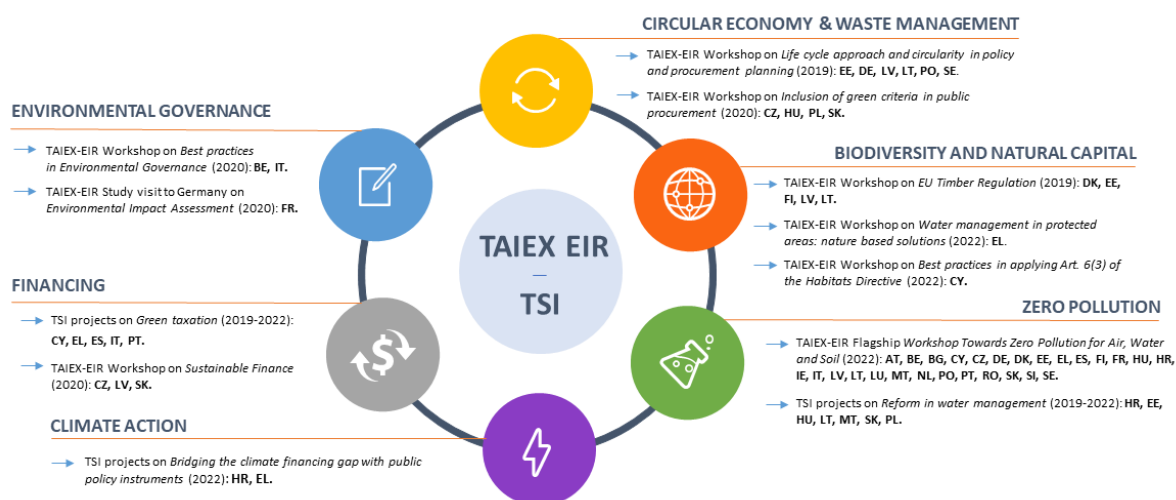
<sup>123</sup> BG, CZ, DE, EL, ES, FI, FR, HR, HU, IE, IT, LT, LV, LU, MT, PL, PT, RO, SK, SE, SI.

<sup>124</sup> BE, HR, IE, IT, PT.

<sup>125</sup> AT, BE, BG, CZ, DE, EE, ES, FI, FR, HR, HU, IT, LV, LU, MT, NL, PT, RO, SE, SK.

<sup>126</sup> Infringement procedures concerned 17 Member States.

**Figure 7: Examples of assistance provided by the European Commission to Member States during the reporting period**



#### 4. The way forward on the environmental rule of law

Europeans see climate change as one of the EU’s top challenges<sup>127</sup>. The studies available<sup>128</sup> point in the same direction: if we continue to degrade the ecosystems on which we fundamentally depend, future generations will pay a terrible price. Alarm bells are ringing louder than ever. With the ongoing extinction of species and destruction of forests, droughts, land degradation, air pollution, degraded water supplies, biodiversity loss and natural and human-caused disasters, one thing is clear: it requires determined collective action to reverse these trends and restore and protect our ecological systems.

Enhancing transparency will enable the effective implementation of norms and legislation. The EIR does not just target environmental decision-makers, but also everyone across the EU. It is not simply one more report among many others. It raises public awareness, it builds the case for accountability and it enables people across the EU to be part of joint effort by giving them a better understanding of what can be and/or still needs to be done at individual, local, national or EU level. The EIR seeks to empower all of these stakeholders to act coherently, but from different angles, in pursuit of the same common-sense objective: to apply the rules we have.

In the eyes of the public, failure to meet EU environmental objectives affects the credibility of both national authorities and the EU. The significant number of environment-related court cases, infringements, petitions and complaints, handled at both national and EU level, reflects the insufficient level of implementation of the environmental acquis.

The national environmental authorities and the national courts, which are primarily responsible for the implementation of EU law, have made efforts to implement and enforce environmental rules, but it has not been sufficient to close the gaps. Although some Member States and regions have an excellent track record in implementing the environmental acquis, others are lagging behind, sometimes significantly. Even in cases where the Commission has taken enforcement action, sometimes resulting

<sup>127</sup> [Avenir de l'Europe \(europa.eu\)](https://www.europa.eu).

<sup>128</sup> [The European environment — state and outlook 2020](#).

in Member States paying hefty financial penalties after a second judgment of the CJEU establishing that they infringed EU law, implementation is weak.

Why is this happening? Previous EIRs identified a few of the reasons, which remain valid today. They relate to *insufficient integration of the environmental objectives* in the framing and execution of public policies with a significant environmental footprint, *ineffectiveness of environmental governance*, including by those responsible for ensuring compliance on the ground, and *lack of transparency on environmental information*, which would enable those concerned, be they authorities or ordinary members of the public, to mobilise and act. The country reports also point to remaining shortcomings in implementing the three pillars of the Aarhus Convention<sup>129</sup>: access to information, public participation and access to justice, which affects implementation and enforcement at national level<sup>130</sup>.

So, what can be done? While we each have a part to play, the *political will* is the crucial ingredient for governments and decision-makers to drive the timely, correct and efficient implementation of EU environmental policies and regulations, achieve their objectives and reap their benefits. In its Communication on ‘*Improving access to justice in environmental matters in the EU and its Member States*’<sup>131</sup> the Commission also called for stepping up implementation by way of more effective access to justice in environmental matters in national courts. Specifically, the European Parliament and the Council were called upon to adopt provisions on access to justice in new or revised EU legislative proposals<sup>132</sup>. The response to the COVID-19 crisis or the conflict in Ukraine has shown what governments are capable of *when* they sense an emergency. Public authorities have the means to deploy public money in order to make the investments and reforms needed to restore and protect ecological systems, land, water and air.

Once the necessary political will is secured, solutions to the root causes of insufficient implementation are to:

1. *Plan in advance and identify the correlations and implications: before making decisions with an environmental impact, all relevant environmental aspects should be assessed systematically and in advance, with a view to identifying further integrated solutions for the sectors involved. The legislation on environmental impact assessments provides the necessary framework and practice shows that environmental procedures (impact assessments, public consultations, environmental authorisations) can be integrated and, with adequate planning and organisation, do not need to be burdensome. We can learn from good practice.*
2. *Allocate the appropriate resources in time, because later it will cost more: we cannot expect swift implementation of environmental rules if those required to do so are lacking in numbers, resources, organisation or training. Capacity-building is an investment that pays off, but the analysis in this EIR indicates that for many Member States there is still a significant gap between needs and financing.*
3. *Monitor and measure constantly, because data are the source for changes in course and future decision-making: tackling implementation gaps requires solid evidence in order to identify the*

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<sup>129</sup> United Nations Economic Commission for Europe (UNECE) Convention on access to information, public participation in decision-making and access to justice in environmental matters as ratified by 2005/370/EC: Council Decision of 17 February 2005 on the conclusion, on behalf of the European Community, of the Convention on access to information, public participation in decision-making and access to justice in environmental matters, OJ L 124, 17.5.2005, p. 1–3.

<sup>130</sup> It should be noted that Regulation (EU) 2021/1767 of the European Parliament and of the Council of 6 October 2021 amending Regulation (EC) No 1367/2006 on the application of the provisions of the Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters to Community institutions and bodies, OJ L 356, 8.10.2021, p. 1–7 - enhanced access to administrative and judicial review at Union level for citizens and environmental non-governmental organisations that have specific concerns about the compatibility with environmental law of administrative acts that have effects on the environment, as committed in the European Green Deal.

<sup>131</sup> [COM\(2020\) 643 final](#).

<sup>132</sup> See most recently the proposals to revise the [Industrial Emissions Directive](#), [Nature Restoration Law](#) and the [Deforestation Regulation](#), which include specific access to justice provisions.

*'distance to target', the obstacles and the options available, and in order to monitor the effectiveness of the solutions put in place. A serious effort is needed to make this information available in a user-friendly manner. This would enable public authorities to act, but also enable private actors to contribute and ensure that action is taken, eventually building solid knowledge, confidence and trust.*

In these respects, the European Green Deal and NextGenerationEU have been a game-changer. The former put climate action and environmental objectives at the core of the EU agenda. The latter introduced the 'do no significant harm' principle and applied it through both regular spending and through the extraordinary EU funds intended to relaunch the EU economy embattled by the COVID-19 pandemic, allocating a proportion of that money to green projects. This has great potential in terms of ensuring discipline in environmental integration and boosting the development of clean technologies and renewable energy, sustainable mobility, etc. Green earmarking and tagging have made green projects possible, as well as the reforms that Member States presented in their recovery and resilience plans, which should, among other things, begin to strengthen environmental governance. They are just the start in terms of turning the tide in environmental compliance, and hence in protecting our environment.

There is one thing, however, that we all have in our power: to make legitimate demands to public authorities while at the same time taking concrete steps to ensure that EU environmental rules are respected. It is up to everyone in the EU, in their private or public capacity, to make that happen.