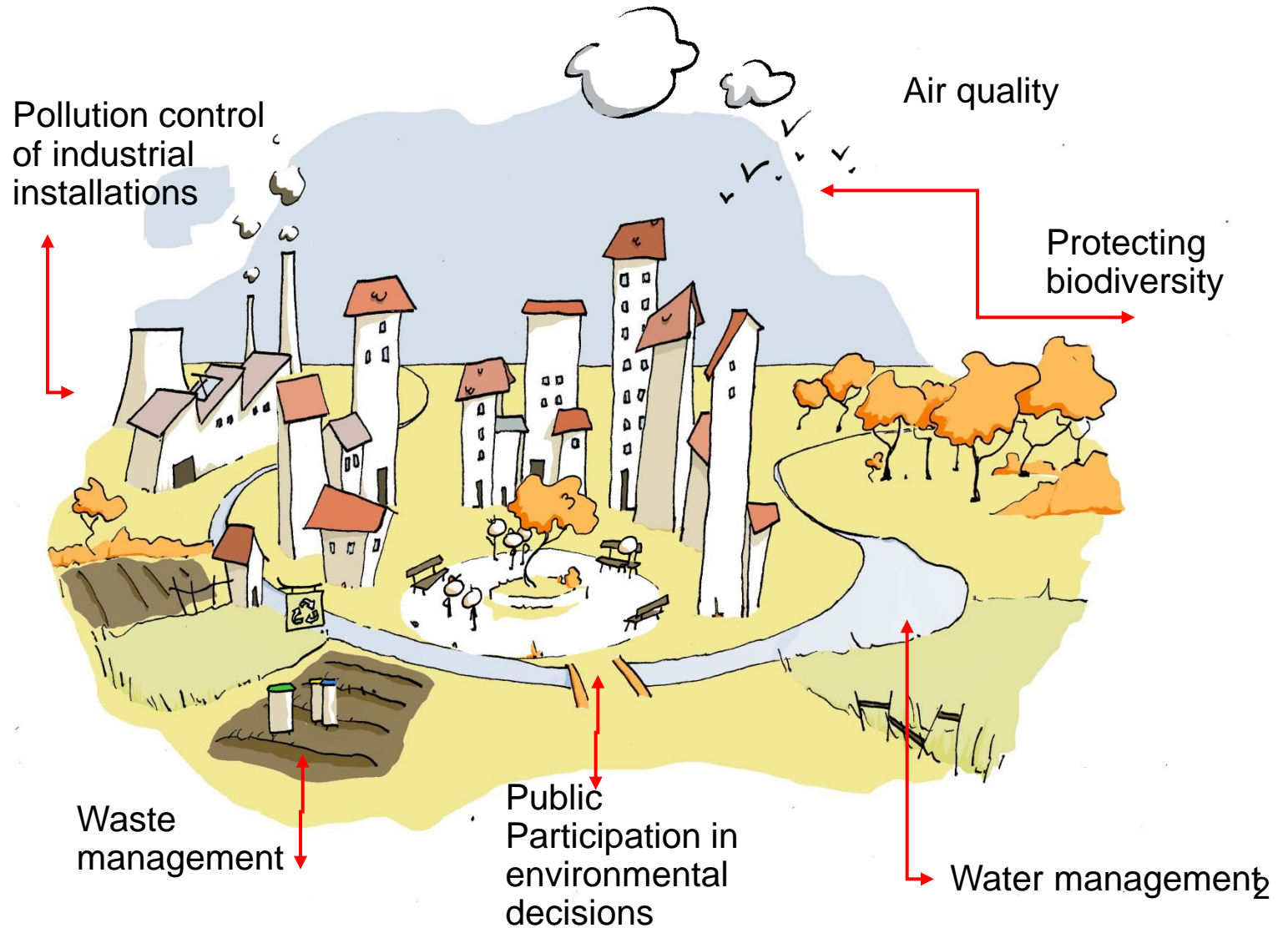




Implementing EU ENV law

29 March 2017
ENV/E2

Ion Codescu



Enforcement

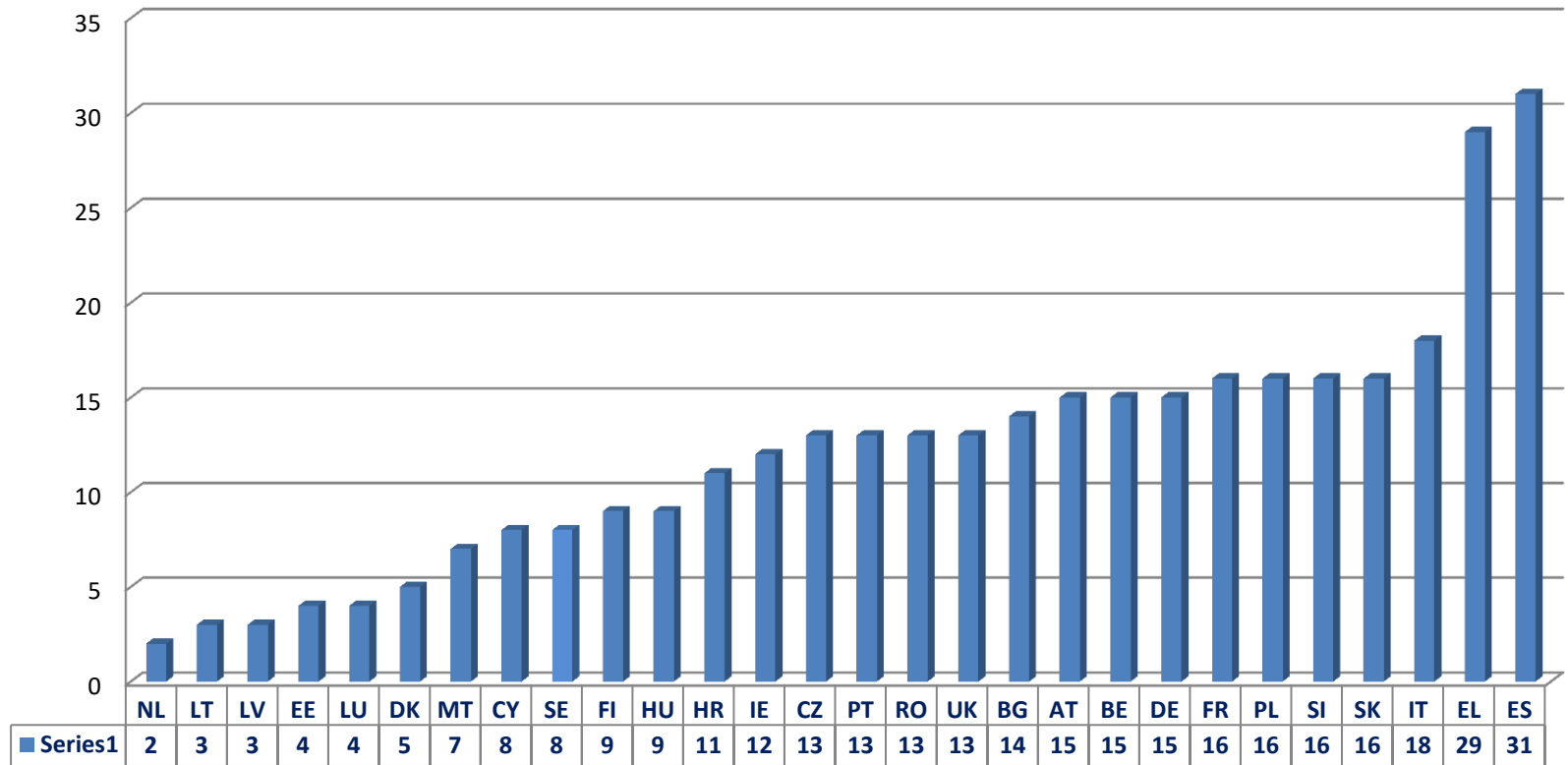
What is at stake?

- *over 200 pieces of EU Environmental law*
- *transposition may hide the EU origin*
- *interpretation CJEU of EU law is binding*

Implementation of EU environmental law – Roles

- The main responsibility for implementation lies with the **Member States** (administrative and judicial authorities at all levels).
 - ✓ Article 19(1) TEU: Member States shall provide remedies sufficient to ensure effective legal protection in the fields covered by Union law.
- The **Commission** is "the guardian" of the Treaties: it monitors and ensures the timely and effective implementation of EU law through dialogue and enforcement action.
 - ✓ Article 17(1) TEU: ... "It shall ensure the application of the Treaties, and of measures adopted by the institutions pursuant to them. It shall **oversee** the application of Union law under the control of the CJEU...".
 - ✓ Article 258 and 260 TFEU (**infringement** procedures).
- Origins of an infringement case:
 - ✓ **Complaints** or petitions/questions from EP
 - ✓ *Own initiative (non-communication cases, analysis of the conformity of the transposition, reports, media, external studies ...)*
- Commission enjoys a discretionary power in deciding whether or when to open an infringement and whether or when to refer a case to the Court.

DG ENV Open infringements per Member State (338) on 24/02/2017



Article 258 TFEU (first stage)

Letter of formal notice



2 months for answer

Reasoned opinion



Technical meetings



2 months for answer

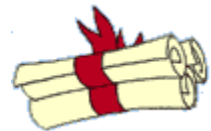
The Court



Technical meetings



Judgement of the Court



Article 260 TFEU (second stage)

Letter of formal notice



The Court



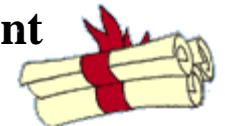
Response
within 2
months



Technical
meetings



Second judgment



First judgment of the Court



Sanctions





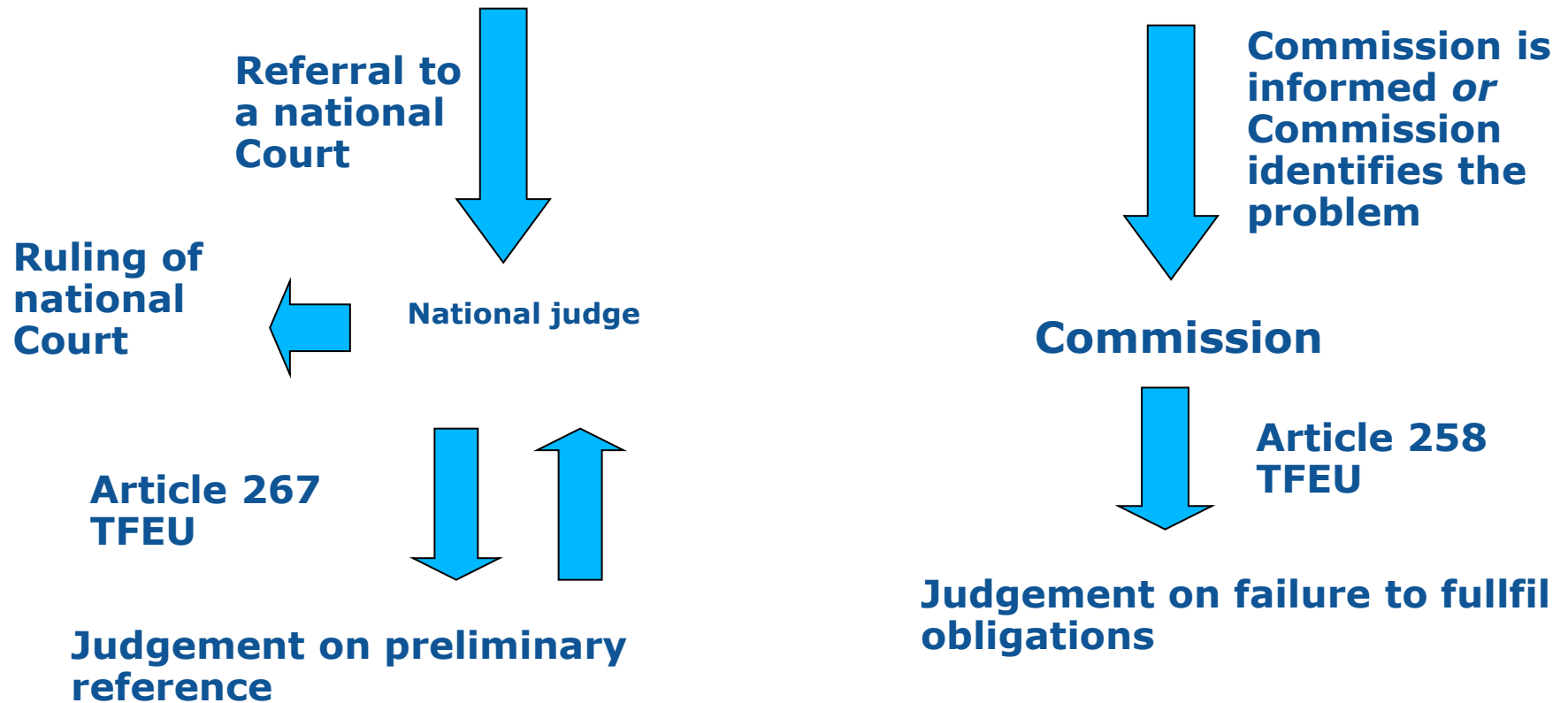
Penalties

- Article 260 TFEU

- As regards the amount of the penalty payment and the lump sum, the Commission bases its approach on its Communication of 13 December 2005, entitled 'Application of Article [260 TFEU]' (SEC(2005) 1658), as updated by the Commission Communication of 31 August 2012, entitled 'Updating of data used to calculate lump sum and penalty payments to be proposed by the Commission to the Court of Justice in infringement proceedings' (C(2012) 6106 final).

Conclusion : 2 complementary alternatives for ensuring compliance with EU law

EU law implementation problem



Court of Justice of the European Union

Cooperation with national judges- ENV domain

What is at stake?

- *national judges are also EU judges*
- *heavy workload on complaints for DG ENV and not always an appropriate response*
- *reinforcing the national level useful*
- *provide a support to national judges (prosecutors also involved)*



Cooperation with national judges- ENV domain

Framework contracts with external training institutes:

- develop training modules on DG ENV's main policies and those which generated most complaints*
- organise workshops in the MS, together with the national schools for the judiciary*
- develop training of trainers*

Cooperation with national judges- ENV domain

Deliveries:

-Workshops on Environmental Impact Assessment (EIA), Nature Protection, Waste, Water, Principles of EU Environmental Law, Protection of Environment through Criminal Law, Industrial Emissions, links between EIA and Natura, Procedural rights (Aarhus, Access to Justice).

-Training booklets (trainers material)

- Need more info?

<http://ec.europa.eu/environment/legal/law/judges.htm>

The Environmental Implementation Review (EIR) package:

Communication:

- Policy conclusions from the country reports
- Common problems
- Root causes

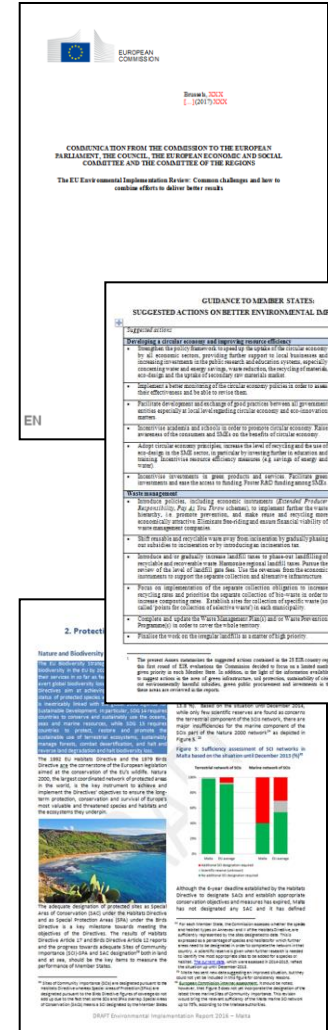
Annex:

- Overview of all suggested actions per topic

28 Country Reports:

- Snapshot of main implementation gaps
- Success stories
- Suggested actions

Website: http://ec.europa.eu/environment/eir/index_en.htm



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

GUIDANCE TO MEMBER STATES

SUGGESTED ACTIONS ON BETTER ENVIRONMENTAL IMPLEMENTATION¹

Topic	Suggested action	Member States
Circular economy	• Developing a circular economy and improving resource efficiency	BE, BG, CY, CZ, DE, DK, EE, EL, ES, FR, GR, HU, IE, IT, LU, NL, PL, PT, RO, SI, SK, SE, UK
	• Improve the environmental footprint of the public sector	BE, BG, CY, CZ, DE, DK, EE, EL, ES, FR, GR, HU, IE, IT, LU, NL, PL, PT, RO, SI, SK, SE, UK
	• Improve the environmental footprint of the private sector	BE, BG, CY, CZ, DE, DK, EE, EL, ES, FR, GR, HU, IE, IT, LU, NL, PL, PT, RO, SI, SK, SE, UK
	• Improve the environmental footprint of the construction sector	BE, BG, CY, CZ, DE, DK, EE, EL, ES, FR, GR, HU, IE, IT, LU, NL, PL, PT, RO, SI, SK, SE, UK
Air quality	• Reduce emissions from transport	BE, BG, CY, CZ, DE, DK, EE, EL, ES, FR, GR, HU, IE, IT, LU, NL, PL, PT, RO, SI, SK, SE, UK
	• Reduce emissions from industry and construction	BE, BG, CY, CZ, DE, DK, EE, EL, ES, FR, GR, HU, IE, IT, LU, NL, PL, PT, RO, SI, SK, SE, UK
	• Reduce emissions from agriculture	BE, BG, CY, CZ, DE, DK, EE, EL, ES, FR, GR, HU, IE, IT, LU, NL, PL, PT, RO, SI, SK, SE, UK
	• Reduce emissions from energy production	BE, BG, CY, CZ, DE, DK, EE, EL, ES, FR, GR, HU, IE, IT, LU, NL, PL, PT, RO, SI, SK, SE, UK
Water and biodiversity	• Protect and restore freshwater ecosystems	BE, BG, CY, CZ, DE, DK, EE, EL, ES, FR, GR, HU, IE, IT, LU, NL, PL, PT, RO, SI, SK, SE, UK
	• Protect and restore marine ecosystems	BE, BG, CY, CZ, DE, DK, EE, EL, ES, FR, GR, HU, IE, IT, LU, NL, PL, PT, RO, SI, SK, SE, UK
	• Protect and restore terrestrial ecosystems	BE, BG, CY, CZ, DE, DK, EE, EL, ES, FR, GR, HU, IE, IT, LU, NL, PL, PT, RO, SI, SK, SE, UK
	• Protect and restore biodiversity	BE, BG, CY, CZ, DE, DK, EE, EL, ES, FR, GR, HU, IE, IT, LU, NL, PL, PT, RO, SI, SK, SE, UK

2. Protect Nature and Biodiversity

The present Annex contains the suggested actions contained in the 28 EIR country reports. It should be used in conjunction with the EIR country reports and the EIR summary report. It is intended to provide a snapshot of the main implementation gaps identified in the EIR country reports and to suggest actions to address them. The suggested actions are presented in a table format and are intended to be used as a guide for the implementation of the EIR country reports. The suggested actions are presented in a table format and are intended to be used as a guide for the implementation of the EIR country reports.

Figure 1: Suggested actions of 10 member states





Figure 2: Suggested actions of 10 member states



Although the cover sheets submitted by the Member States to design EIRs and establish separate governance structures and data for the EIRs are not designed after a standard, it has been defined a common template for the EIRs. The template is a key milestone towards meeting the objectives of the EIR package. The results of the EIRs are presented in the EIR summary report and the progress towards achieving the EIR objectives is presented in the EIR summary report. The EIR summary report and the progress towards achieving the EIR objectives should be the key items to measure the performance of Member States.

The way forward: a policy framework

1. Setting up a structured implementation dialogue with each Member State
2. Providing tailored support to Member States' experts directly by their peers from other Member States
3. Discussing common structural issues in the Council in order to improve the implementation of the EU's environmental rules





European
Commission

Thank you