



**European Committee
of the Regions**

ENVE-VI/021

125th plenary session, 9-10-11 October 2017

OPINION

Environmental Implementation Review

THE EUROPEAN COMMITTEE OF THE REGIONS

- urges the European Commission to make climate change an important element of the next round of the EIR and to include climate change mitigation and adaptation as well the implementation of the Industrial Emissions Directive and REACH;
- recalls the pivotal role of local and regional authorities in tackling climate change and encourages in this respect the formulation and allocation of regional and local climate change targets, in addition to the Nationally Determined Contributions, as an important feature of delivering the Paris climate change obligations;
- recommends that the European Commission be more incisive in the EIR analysis and increase comparability between Member States, allowing for a transparent, easily understandable illustration of the progress made on key implementation challenges by individual Member States, which should not result in any additional reporting by Member States, regions or cities;
- stresses the need for proper involvement of local and regional authorities in the EIR national dialogues and urges the European Commission to provide guidelines to ensure the full participation of local and regional authorities;
- offers the European Commission close and structured cooperation for the whole EIR cycle, including activities by the Joint Technical Platform for Cooperation on the Environment; invites the European Parliament to cooperate closely on the EIR and on relevant future European Parliament implementation reports; underlines its preparedness to contribute to future EIR-related discussions held by the Council, informal meetings of Environment Ministers or other Council Presidency activities related to the EIR, and suggests exploring the possibility of organising issue-specific meetings in close cooperation with local and regional authorities and the European Commission's and the EP's national representations in different parts of the EU territory;
- recommends that the Environmental Implementation Reviews focus on ineffective coordination between local, regional and national authorities, in order to address: unclear divisions of competencies and responsibilities, a lack of administrative capacity, insufficient financing and use of market based instruments, a lack of policy integration and policy coherence, a lack of knowledge and data and insufficient compliance assurance mechanisms.

Rapporteur

Andrew Varah Cooper (UK/EA), Member of Kirklees Council

Reference document

European Commission Communication on Delivering the benefits of EU environmental policies through a regular Environmental Implementation Review
COM(2016) 316 final

Opinion of the European Committee of the Regions – Environmental Implementation Review

I. POLICY RECOMMENDATIONS

THE EUROPEAN COMMITTEE OF THE REGIONS

A. General remarks

1. supports the idea that the Environmental Implementation Review (EIR) aims to improve common knowledge on the existing implementation gaps in EU environmental policy and law in each Member State, provides new solutions to accompany legal enforcement, addresses the underlying root and often cross-sectoral causes of these gaps and tries to encourage the exchange of good practices;
2. acknowledges that the EIR package published in February 2017¹ provides the first ever comprehensive overview of how EU environmental policies and laws are applied on the ground in the Member States, with 28 country reports. It shows that environmental policies work but that there are big consistency gaps in how these rules and policies are put into practice across Europe;
3. underlines that successful implementation of EU environmental policy requires close cooperation between all levels of governance, from the local up to the EU level; is therefore pleased that the Commission's Communication refers explicitly to cooperation with the Committee of the Regions, but recalls that further improvements are necessary in many Member States to ensure the effective involvement of local and regional authorities in reviewing and improving implementation;
4. calls on the European Commission and Member States to make the best use of the EIR to support that environmental considerations are taken into account in the macro-economic priorities of the European Semester process, and to support the achievement of the Sustainable Development Goals under the 2030 Agenda for Sustainable Development;
5. stresses the need for a structured implementation dialogue with each Member State during the course of 2017/2018 and the proper involvement of local and regional authorities, with the purpose of reflecting on how to address structural issues and the needs of the particular Member State;
6. recommends that the European Commission be more incisive in the EIR analysis and increase comparability between Member States. The European Commission should provide a transparent, easily understandable illustration of the progress made on key implementation challenges by individual Member States during the next EIR round, which should not result in any additional reporting by Member States, regions or cities;

¹ All documents available on http://ec.europa.eu/environment/eir/index_en.htm.

7. urges the European Commission and Member States to continue strengthening the role of IMPEL and further developing national IMPEL networks that engage experts from regional and local authorities in sharing best practices²;
8. considers that, where possible and appropriate, the EIR process should tie in with existing evaluation mechanisms that also relate to the implementation of European legislation, such as the Make It Work project, the activities of the IMPEL network, and the REFIT programme;
9. welcomes the European Commission Notice on Access to Justice in Environmental Matters³ and anticipates the guidance on environmental compliance as a further specific initiative by the European Commission in 2017 to support better implementation of environment law⁴;
10. supports the European Commission Report on Actions to Streamline Environmental Reporting⁵, as a result of the European Commission's Fitness Check of Reporting and Monitoring of EU Environment Policy⁶, to which the CoR contributed with the outlook opinion COR-2015-05660-00-00-AC-TRA. The CoR reiterates its call for a horizontal approach by the European Commission to environmental monitoring and reporting and therefore expects the European Commission to consequently apply actions 1 and 2 of the report, proposing legislative amendments to reporting obligations defined in pieces of existing or new legislation, with the purpose of further harmonising and simplifying these obligations.

B. The role of the CoR in the EIR policy cycle within the inter-institutional context

11. offers the European Commission close and structured cooperation for the whole EIR cycle, including activities by the Joint Technical Platform for Cooperation on the Environment⁷, focusing on the different structural implementation challenges for local and regional authorities and solutions to them, as highlighted in section D of the opinion. This also includes exploring means for the CoR to contribute to substantiating the EIR country specific reports and guidance for Member States by providing a territorial dimension, taking account of the experience the CoR has gained from its contributions to the Europe 2020 governance cycle through the regular assessment of the European semester from a local/regional perspective;
12. welcomes the fact that the European Commission indicates in its communication that the EIR is complementary to existing implementation efforts such as compliance assurance and infringement proceedings;
13. considers it to be important for the EIR system to be evaluated after two rounds (four years) to assess the effectiveness of the mechanism;

² IMPEL is the European Union Network for the Implementation and Enforcement of Environmental Law. It operates across the EU's Member States.

³ C(2017) 2616 final

⁴ CDR 5660/2015

⁵ COM(2017) 312 final

⁶ SWD(2017) 230 final

⁷ http://ec.europa.eu/environment/legal/platform_en.htm

14. believes that the EIR offers an opportunity for a targeted cooperation between the CoR and the European Parliament, with exchanges on the challenges and solutions relating the implementation of EU environment law, bringing together the interests of the co-legislator and the experiences of decision-makers from the implementing authorities. The Committee invites the European Parliament to cooperate closely on both issues debated by the ENVI Committee – the EIR and the key implementation challenges and identified root causes – and on relevant future European Parliament implementation reports, including by holding joint meetings of the CoR ENVE Commission and EP ENVI Committee on these subjects;
15. underlines its preparedness to contribute to future EIR-related discussions held by the Council, informal meetings of Environment Ministers or other Council Presidency activities related to the EIR; offers its support during the preparations for these discussions and activities, in particular through targeted CoR opinions as requested by the Council Presidencies, and through meetings of the joint CoR/EC Technical Platform for Cooperation on the Environment;
16. suggests exploring the possibility of organising issue-specific meetings in close cooperation with local and regional authorities and the European Commission's and the EP's national representations in different parts of the EU territory; such events would serve to discuss specific local implementation challenges and could thus contribute to the country reports;

C. Including more policy areas

17. regrets that the European Commission limited the initial focus of the EIR to the areas of waste management, nature and biodiversity protection, air quality, noise pollution and water quality and management⁸;
18. urges the European Commission to make climate change an important element of the next round of the EIR and to include climate change mitigation and adaptation whilst ensuring compatibility with the provisions of the energy union governance; recalls the pivotal role of local and regional authorities in tackling climate change and encourages in this respect the formulation and allocation of regional and local climate change targets, in addition to the Nationally Determined Contributions, as an important feature of delivering the Paris climate change obligations;
19. stresses the need to incorporate the implementation of the Industrial Emissions Directive into the next round of the Review. In this respect, the IMPEL network should have a more prominent role in the process in order to support the collection of good practices for 2019;
20. also recommends integrating EU policy on chemicals, which is a cornerstone of EU environmental policy. The EIR should highlight shortcomings and positive experiences with respect to the registration, evaluation and authorisation of chemicals.

⁸

For a detailed summary of the results for the different policy fields see: EPRS (European Parliament Research Service) Briefing 03/2017: Environmental Implementation Review. Produced at the request of the CoR in the framework of the Cooperation Agreement between the Parliament and the CoR.

D. Root causes of bad policy implementation

21. welcomes the European Commission's intention to improve country-specific knowledge on the quality of public administrations and governance and the division of competences between national/regional/local authorities in the implementation of EU environment law;
22. acknowledges that in addition to the more complete analyses of the implementation gaps in the traditional environmental sectors, the EIR provides – for the first time in relation to environment – preliminary findings on the possible root causes of poor implementation;
23. recommends that the Environmental Implementation Reviews focus on ineffective coordination between local, regional and national authorities, in order to address: unclear divisions of competencies and responsibilities, a lack of administrative capacity, insufficient financing and use of market based instruments, a lack of policy integration and policy coherence, a lack of knowledge and data and insufficient compliance assurance mechanisms⁹.

Effective coordination between local, regional and national authorities

24. urges the European Commission to develop a common methodology for the national EIR dialogues and provide guidelines to ensure the full participation of local and regional authorities throughout the process;
25. highlights the interaction between improving implementation and improving regulation: the instruments used by the EU, the coherence and consistency of EU legislation and the administrative burden all also need to be examined in the event that environmental policy objectives are not being met;
26. asks Member States to facilitate the establishment of Local and Regional Environmental Implementation Reviews corresponding to the national reviews;
27. recommends that Member States liaise more closely with local and regional authorities as early as the policy development and legal transposition stages and, as encouraged in the 7th EAP, for example in the framework of vertical cross-governmental dossiers teams;
28. stresses the need for Member States to further develop mechanisms to improve effective vertical coordination, including clear division of responsibilities between different government levels;
29. urges Member States and regional and local authorities to further reduce fragmentation, including by taking further steps such as introducing integrated environmental permits that

⁹ See also the CoR study report of September 2017 on "Effective multi-level environmental governance for a better implementation of EU environment legislation", carried out by Milieu Ltd. Available on <http://cor.europa.eu/en/documentation/studies/Pages/studies.aspx>

combine the various sectoral environmental permits, and by streamlining the EIA and SEA procedures¹⁰.

Strengthening of administrative capacity in relation to the implementation of environmental policy

30. stresses, as confirmed by the EIR, that there is a lack of financial, human and technical resources to properly implement EU environment legislation in many local or regional authorities and that in particular smaller municipalities often have limited resources to develop their own technical expertise on regulatory requirements; underlines therefore the need for more assistance from the EU level, either directly or by encouraging Member States to provide support, for regional and local authorities to cooperate horizontally (within Member States and cross-border) in order to aggregate projects, to exchange best practices and to develop common processes and procedures;
31. calls on the Member States, regional and local authorities to ensure that the financial and human resources allocated to local and regional environmental administrations are commensurate with their (transferred) tasks;
32. urges the European Commission to make EU guidelines available in more languages, and the Member States to produce common standards, templates, check-lists, and training programmes in cooperation with regional and local authorities to ensure the consistency of implementation and reporting;
33. requests local and regional authorities to review the quality of procedures, to streamline environmental permitting and to pool resources with other departments, thus achieving economies of scale and tackling environment problems which cut across administrative boundaries, while making use of the EU Quality of Public Administration Toolbox¹¹;
34. asks the European Commission, Member States, and regional and local authorities to promote the involvement of local and regional experts in the IMPEL network, and in the up-coming EIR peer-to-peer tool;
35. asks the European Commission, and in particular the Member States to involve local and regional experts when developing EU guidelines, as well on related national guidelines, in order to make for greater clarity and flexibility in implementing them;
36. urges the European Commission to allocate a sufficient budget to the new EIR peer-to-peer tool. The Commission should also ensure its complementarity with the peer-to-peer activities carried out by IMPEL, and with the exchange of environmental issues by managing authorities under the TAIEX REGIO PEER 2 PEER tool.

¹⁰ Environmental Impact Assessment (EIA) and Strategic Environmental Assessment (SEA).

¹¹ European Commission, 2015: "Quality of Public Administration – A Toolbox for Practitioners".

Making better use of European funding for the implementation of the environmental acquis

37. urges local and regional authorities, with support from the Member States, to make use of the technical assistance available under Thematic Objective 11 of the European Structural and Investment Funds (ESIF) to increase the institutional and administrative capacity of their environment departments and their capacity to absorb ESIF funding in particular for large scale environmental infrastructures (Objective 6). Also encourages them to make use of the EU Structural Reform Support Programme to improve their environment administration;
38. supports the idea that additional Member States set up networks of experts from cohesion policy managing authorities dedicated to promoting environmental investments;
39. asks the EU, during its preparations for the next MFF, to fully explore options for an increase in EU funding for implementing environment legislation, including the option of ring-fencing a certain percentage for this purpose.

Policy integration and coherence

40. recognises that insufficient integration of environmental concerns into other policy areas is another root cause of the poor implementation of environmental legislation and therefore recalls the need to mainstream key environmental and climate change policy objectives across the whole range of EU activities;
41. asks local and regional authorities to ensure proper coordination at a political and strategic level, by adopting local/regional sustainable development strategies and ensuring that environmental concerns are incorporated at an early stage in their spatial planning to reduce conflicts. Also calls for proper integration of environment concerns at an early stage by applying SEAs;
42. urges local and regional authorities to promote voluntary sectoral agreements with key industrial sectors, and "contracts" between public authorities and societal stakeholders, with the aim of providing information, identifying problems and finding solutions;
43. stresses the fact that the EU must pursue stronger and more effective source-based policies in many areas of environmental policy without which it will remain impossible to comply with various pieces of EU legislation on environment quality standards at local or regional level;
44. asks the European Commission and the Member States to better assist competent local and regional authorities in meeting these standards and targets;
45. requests that the European Commission work with relevant national authorities, the European Committee of the Regions, the EU Covenant of Mayors, the Global Covenant of Mayors for Climate and Energy and ICLEI to develop the concept and methodologies for introducing Local and Regionally Determined Contributions, thereby contributing towards Climate Change targets agreed under the COP21 Paris Climate Agreement. Pathfinding local and regional authorities would initially be involved on a voluntary "proof of concept" basis.

Improving the accessibility of knowledge and data

46. acknowledges that the limited availability of data still causes implementation problems at different governance levels in many Member States and that local and regional authorities can have a pivotal role in collecting knowledge and data and providing information to the public, encouraging greater awareness among citizens;
47. welcomes the fact that the EIR is supposed to be based on existing data and that it should lead to better use and cross-referencing of these data, improving their accessibility not least for local and regional authorities;
48. supports a structured debate on the appropriate allocation of responsibilities and resources in Member States' between municipalities, regions and the national level, in order to ensure that reports and indicators relating to the state of the environment are consistent, effective and reliable;
49. urges Member States, in cooperation with the competent local and regional authorities, to further develop Structured Implementation and Information Frameworks (SIIFs) for all key EU environment laws;
50. requests that the European Commission ensure Member States and their local and regional authorities properly implement the existing minimum requirements contained in the Directive on access to information;
51. asks local and regional authorities pursue an active information policy. This should be two-way (including feedback mechanisms) and provide more citizen-oriented information, such as online map-based tools, apps and educational campaigns;
52. supports the involvement of NGOs in collecting and disseminating environmental information to citizens and the use of "citizens' science" to collect environment data;
53. urges the European Commission and Member States to support authorities in deploying e-solutions and eGovernment to improve their environmental monitoring and reporting; e.g. through the eGovernment Action Plan 2016-2020, the LIFE programme, the Connecting Europe Facility (CEF) and the Horizon 2020 programme and within the context of the launch of Reportnet 2.0 by the European Environment Agency¹²;
54. asks for efforts at all levels to ensure electronic environmental data sharing and the further development of INSPIRE¹³. The involvement of regional and local authorities in the INSPIRE process should also be strengthened.

¹² Action 3 of COM(2017) 312 final

¹³ Directive 2007/2/EC.

Sufficient compliance assurance mechanism

55. is worried that the EIR analysis indicates that compliance monitoring and enforcement are often a cause for concern, due to ineffective sanctions and interactions between inspectors and prosecutors. Local and regional authorities can face problems in interpreting and integrating incoherent EU provisions when undertaking compliance assurance activities. Many local authorities' administrations are too small to ensure professional environmental law enforcement;
56. asks local and regional authorities to ensure clear designation and allocation of powers and the professionalism of competent authorities; to effectively coordinate with national authorities (i.e. police, customs and prosecution services) and to explore creating joint regional environmental enforcement agencies in cases where their own inspection powers are limited;
57. urges national, regional and local authorities to apply a risk-based approach to compliance assurance, ensuring the best mix of monitoring, promotion and enforcement, and better prioritising the use of their limited resources;
58. calls on local and regional authorities, due to their closeness to businesses and citizens, to engage in compliance promotion activities which involve cooperation with regulated business communities, relevant NGOs and citizens;
59. asks Member States, regional and local authorities to apply swift enforcement measures and adopt proportionate and dissuasive sanctions for breaches of EU environment law, consequently applying Directive 2008/99/EC on environmental crime;
60. urges national, regional, and local authorities to address corruption and to ensure the proper functioning of justice systems in the field of environment, upholding the procedural rights conferred on citizens by EU environmental legislation¹⁴;
61. supports all initiatives of national and regional authorities and associations of local authorities to increase their knowledge by sharing of best practices developed by European networks such as i.e. IMPEL, the European Network of Prosecutors for the Environment and the Network of police officers;

¹⁴ The overall effectiveness of national justice systems is addressed by the EU Justice Scoreboard and the European Semester (https://ec.europa.eu/info/sites/info/files/european-semester_thematic-factsheet_effective-justice-systems_en.pdf).

62. urges the European Commission and Member States to continue to strengthen the role of IMPEL and further develop national IMPEL networks that engage experts from regional and local authorities in sharing best practices.

Brussels, 10 October 2017

The President
of the European Committee of the Regions

Karl-Heinz Lambertz

The Secretary-General
of the European Committee of the Regions

Jiří Buriánek

II. PROCEDURE

Title	Environmental Implementation Review
Reference(s)	Communication on Delivering the benefits of EU environmental policies through a regular Environmental Implementation Review COM(2016) 316 final
Legal basis	Optional referral
Procedural basis	
Date of Commission letter	27 May 2016
Date of Bureau/President's decision	14 June 2016
Commission responsible	Commission for Environment, Climate Change and Energy
Rapporteur	Andrew Varah Cooper (UK/EA) Member of Kirklees Council
Analysis	17 March 2017
Discussed in commission	4 July 2017
Date adopted by commission	4 July 2017
Result of the vote in commission	unanimous
Date adopted in plenary	10 October 2017
Previous Committee opinions	Opinion on EU environment law: improving reporting and compliance, COR-2015-05660-00-00-AC-TRA ¹⁵
Date of subsidiarity monitoring consultation	n/a

¹⁵

[OJ C 240, 1.7.2016, p. 15-23.](#)