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Green Economy in Eastern Partner Countries

Regulatory Best Practices Compliance Promotion & Enforcement

A Presentation for Environmental Ministries & Regulators

Simon Bingham

Recorded for the OECD on Zoom - 30th April 2024

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Introduction to the Presenter – Simon Bingham



Regulatory Experience – 30+ years

Permitter, Inspector, Specialist & Manager

Developer of regulatory systems (e.g. Compliance Assessment)

International Experience – 19+ years

Capacity Building & Management Consultancy

15+ country & organizational reviews

Worked on projects to directly support all 5EaP Countries

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Topics Covered

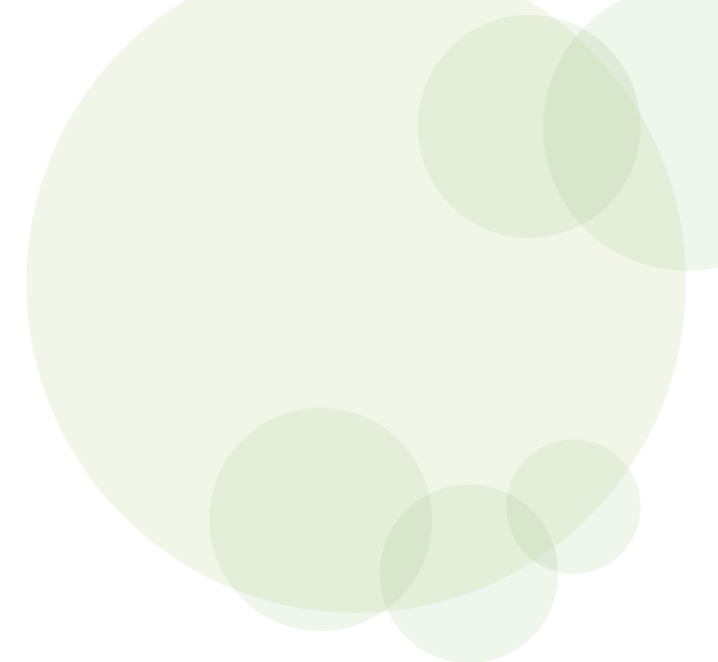
1. Compliance Promotion
2. Enforcement
3. Regulatory Problem Solving
4. Further Resources

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Topic 1. Compliance Promotion

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Good Practice 1 - www.netregs.org.uk



- Scotland & Northern Ireland Environment Agencies. Partnership working.
- Free tailored online environmental guidance for businesses (primarily SMEs).
- 20 years old - permanently staffed.
- Own branding & anonymous.

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NetRegs Search via Sector, Job or Topic

NetRegs

Environmental guidance for your business in Northern Ireland & Scotland



[Home](#) [About](#) [Environmental Topics](#) [Business Sectors](#) [Legislation](#) [A-Z of jobs](#) [Households](#) [Tools](#) [Blog](#)

Sector specific environmental guidance for businesses

My business is:

Business Sectors ▾

View our full A - Z list of jobs

I want to know about:

Environmental Topics ▾

View all environmental topics

✓ View legislation for Northern Ireland or Scotland

☰ View permit applications for NIEA or SEPA

📰 View all our latest news on the Netregs blog

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NetRegs

Tailored guidance

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Transport

[Home](#) / [Business Sectors](#) / Transport

This environmental guidance is for businesses that move passengers and freight using road vehicles, including:

- commercial vehicle operators, using heavy or light goods vehicles
- coach and bus services
- couriers
- taxi operations.

Air pollution >

Carbon reduction and efficiency >

Emergency response >

Environmental management >

Land >

Materials and equipment >

Nuisances >

Permits and licences >

Pollution prevention guidelines (PPGs) >

- [Environmental damage](#)
- [Manage flood risk](#)
- [Pollution incident response planning](#)
- [Firefighting](#)

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NetRegs Different knowledge transfer methodologies



E-learning

Our E-Learning tools are free to use and cover the essentials of each topic.


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Self-assessment

Check your compliance anonymously and for free now. Produce a report to highlight any areas for improvement.


[Start using our self-assessment tool >](#)



Email Newsletter

This free service will provide updates on new & forthcoming legislation, new guidance on the NetRegs website & other items of interest.


[Subscribe to our monthly newsletter >](#)



Video Case Studies

General business topics, as well as videos that focus on the agriculture & construction sectors.

[View our good practice videos >](#)



View our latest environmental blogs

- Draft 3rd Cycle River Basin Management Plan, River Basin Management Plans for Scotland and Northern Ireland [Read the article >](#)
- 10 tips to help your business achieve net zero, The need for businesses to achieve NetZero has never been clearer. Here are some tips... [Read the article >](#)

Sign up to our free monthly newsletter with environmental updates for Northern Ireland and Scotland. [Sign up today](#)

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Good Practice 2

Environmental Management Systems

- OECD (Japan, Australia, USA), EU Industrial Emissions Directive
 - Reduce costs for operators
 - Reduced regulatory burden
 - Earned autonomy

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Good Practice 2

Environmental Management Systems



- Malta – Environment & Resources Authority
 - 50% Reduction in Annual Charge (IPPC)
 - Tiered reduction in risk score
 - EMAS/ISO
 - In-house scheme

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Good Practice 3 – Accessible Communications



- Queensland Government – Department of Environment & Science & Innovation.
- Simple language, easy to read, e-newsletter (email).
 - Changes to legislation, procedures, charges.
 - Enforcement Action update.
 - Links on consultations.

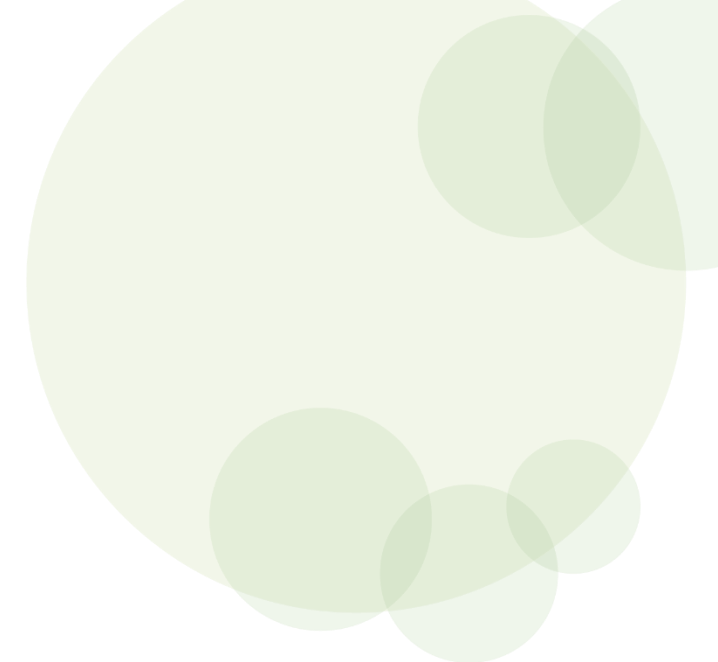
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Topic 2. Enforcement

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Three primary categories of law open to environmental regulators

Administrative

Criminal

Civil

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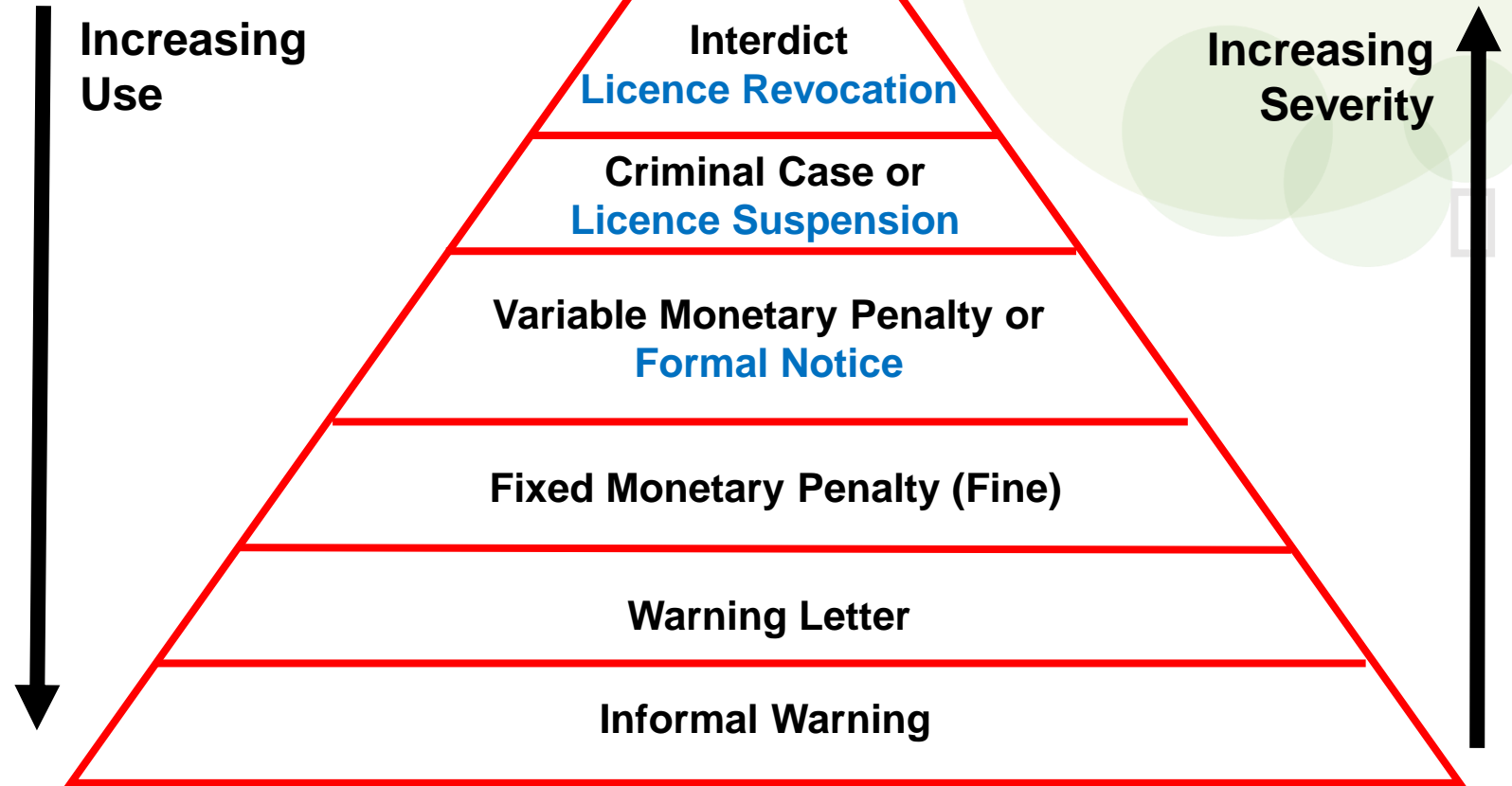




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Enforcement Toolkit

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TYPES OF BEHAVIOUR AND RESPONSES



Champion



Compliant



Confused



Careless



Under-resourced



Opportunistic



Contemptuous



Criminal



REWARD



ENGAGE



ENABLE/FUND



EDUCATE



INSPECT/CHECK



ENFORCE



European
Commission

Enforcement Strategy

- Sets expectations
- Supports consistency* of approach (fairness & equity)
- Deters non-compliance
- Openness & transparency
 - Builds trust
 - Reduces the space for bribery and corruption

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Enforcement Strategy



- Dutch overarching strategy
- Applies to:
 - 29 Environmental Services,
 - Municipalities, Provinces,
 - Police, Prosecutors,
 - Ministry (ILT), Water Boards,
 - Specialist Investigation Service



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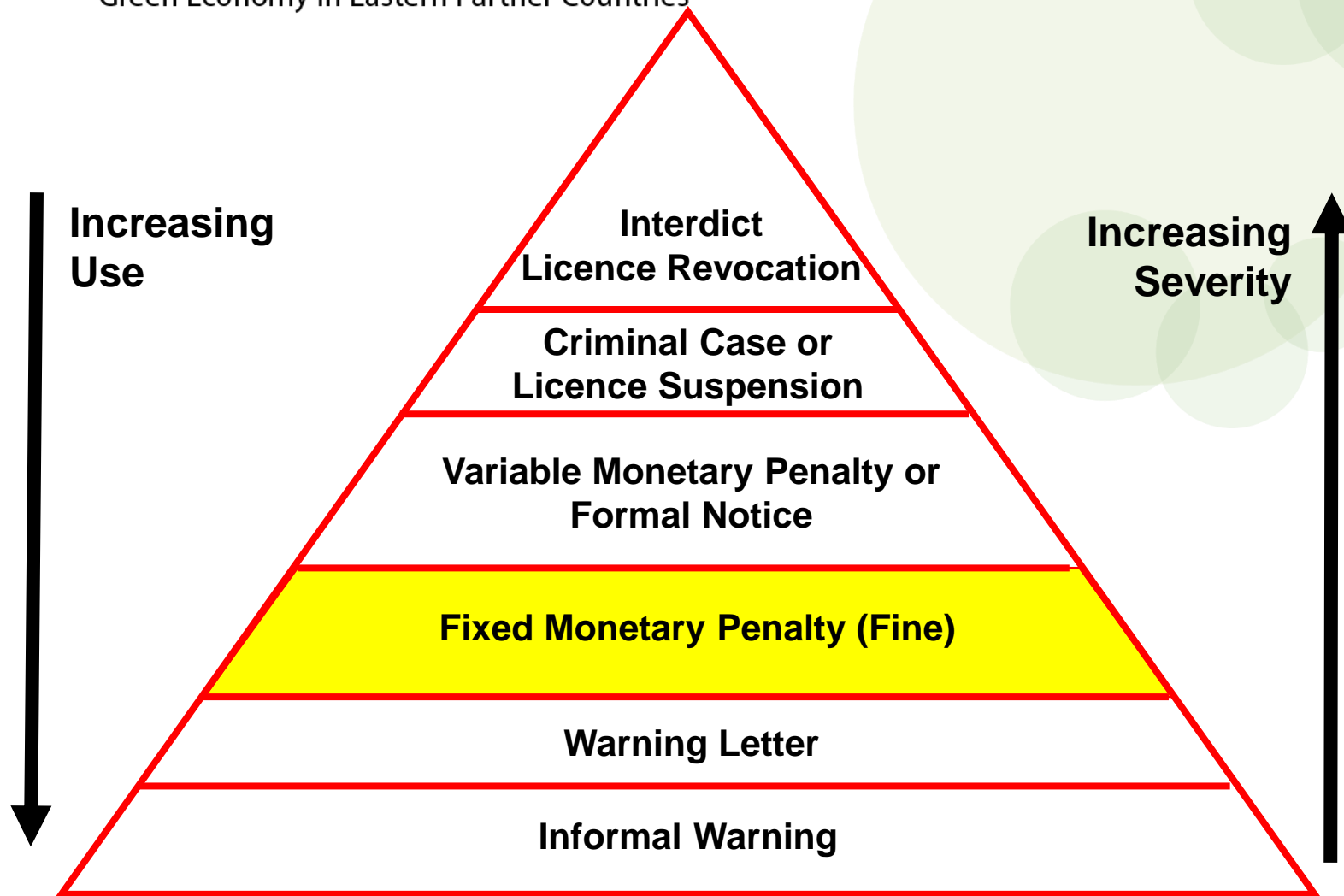


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Common Issue:
Over-reliance on
a limited number
of enforcement
tools.



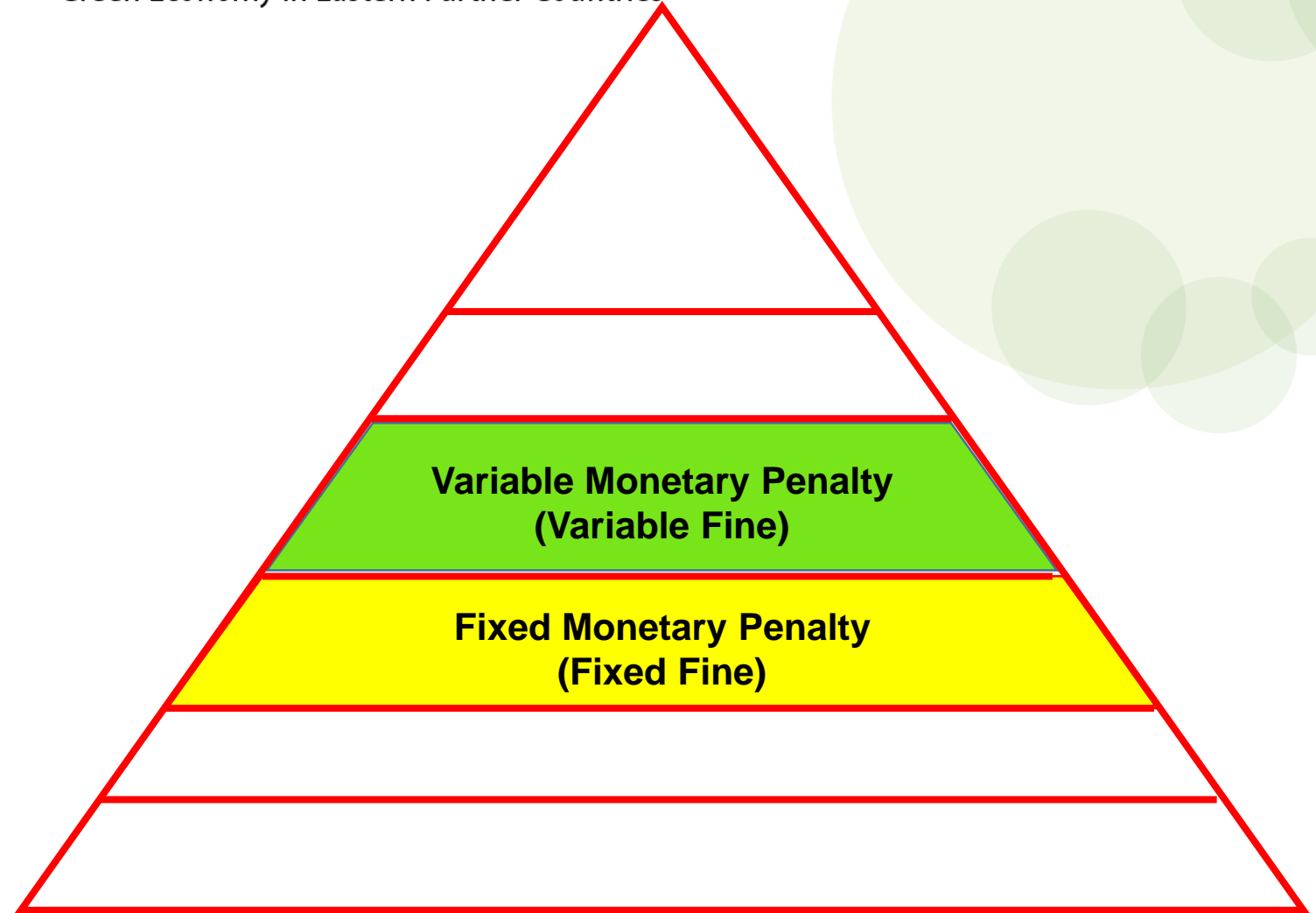
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Common Issue:
The monetary
value of fines in
legislation do not
track inflation

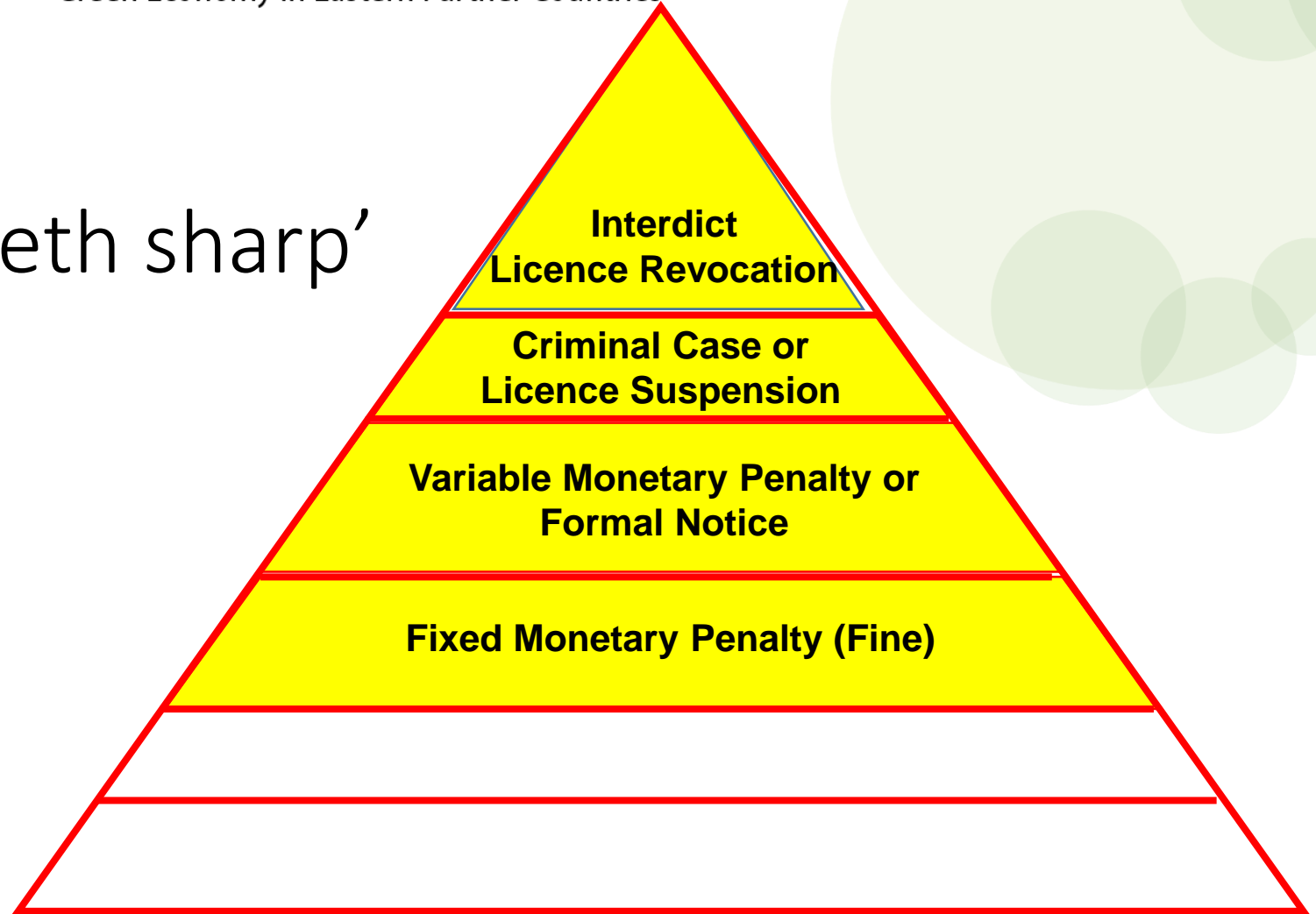


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‘Keeping all your teeth sharp’



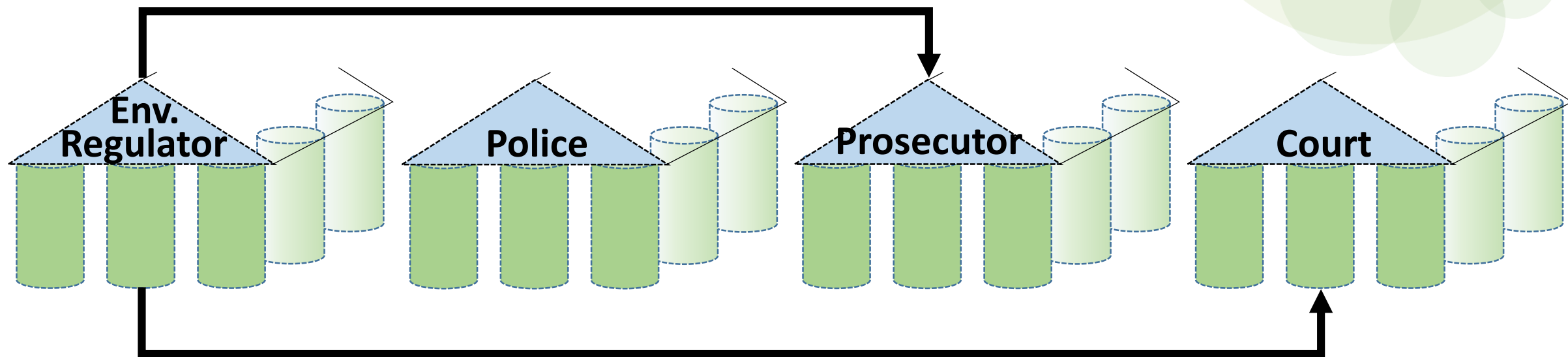
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Enforcement Chain



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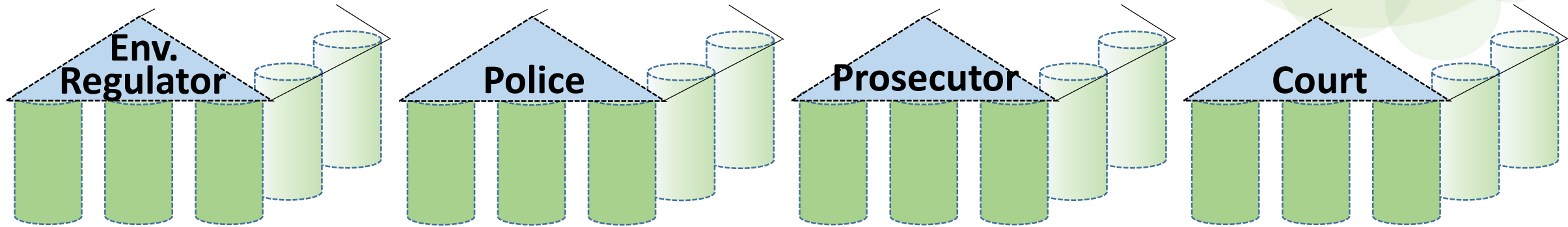
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Enforcement Chain



The system is only as strong as its weakest link

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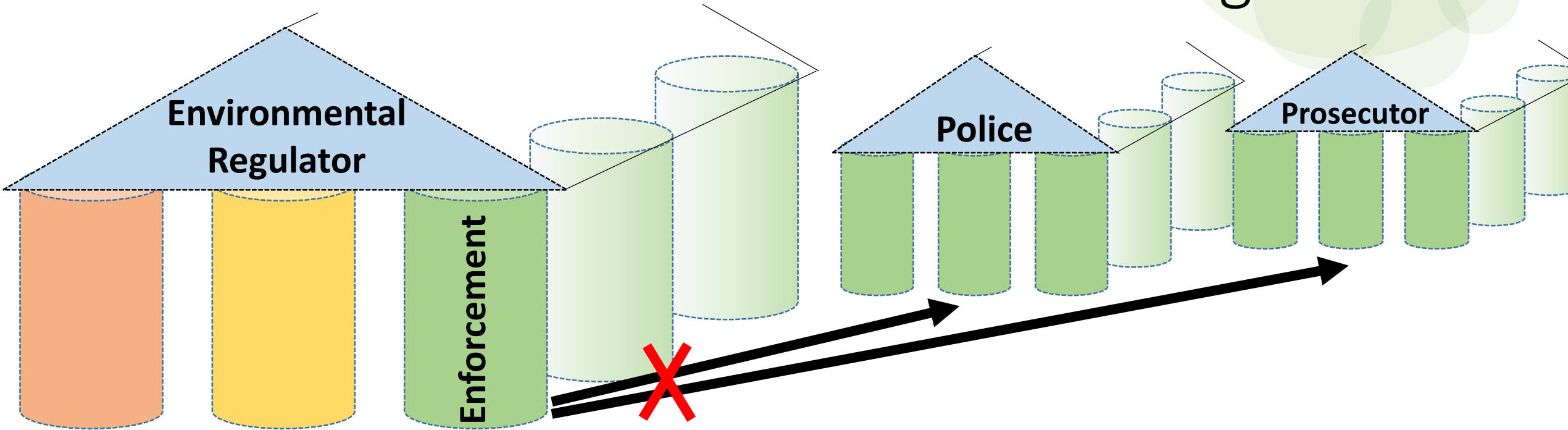
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Common Issues: Poor Communication & Lack of Training



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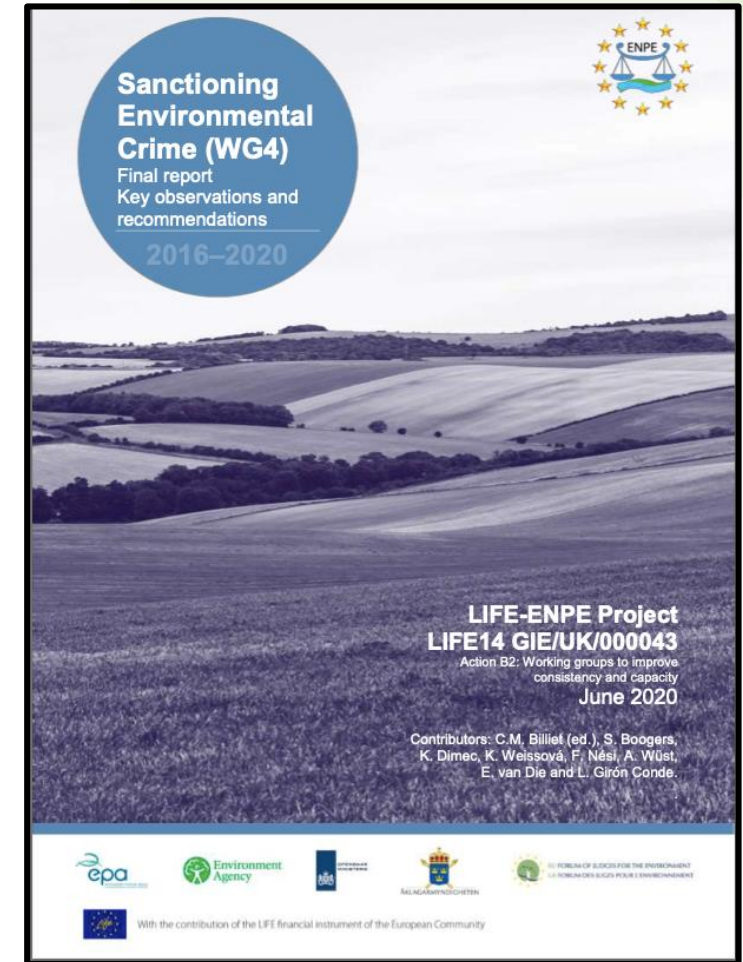


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Common Issue: Lack of Knowledge

- ENPE Network Identified that specialisation is needed throughout the enforcement chain



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Cooperation & Collaboration at EU Level



EU FORUM OF JUDGES FOR THE ENVIRONMENT
UE FORUM DES JUGES POUR L'ENVIRONNEMENT

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Technology – Covert Surveillance

- State specific
- Hidden cameras
- Phone tapping
- Satellite & Aerial Surveillance



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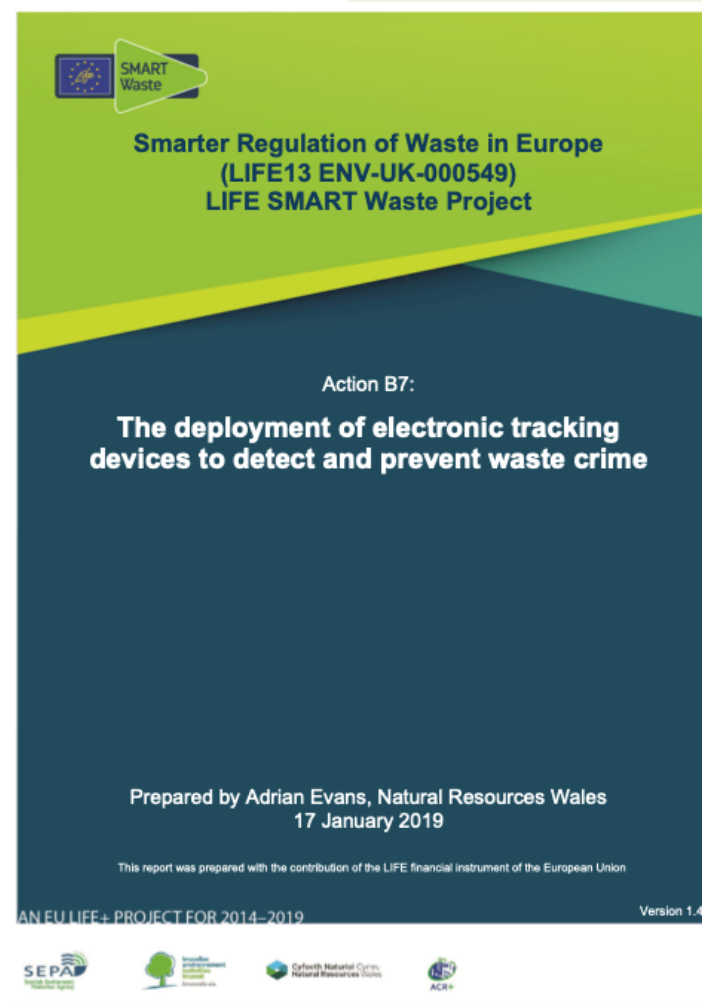


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Technology - Trackers

- State Specific Use
- GPS Trackers in Waste



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The enforcement toolbox should not be seen as fixed



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Enforcement Undertaking

- Voluntary agreement between regulator and regulated entity
- Examples
- OECD: USA, Canada, Australia & UK
- EU: Ireland, Netherlands & Belgium



Enforcement Undertaking (EU) Offer form

Regulatory Enforcement and Sanctions Act 2008, Section 50
Environmental Civil Sanctions (England) Order 2010, Article 3 & Schedule 4

| For Environment Agency use only | |
|------------------------------------|--|
| Name of Offeror: | |
| Date received (DD/MM/YYYY): | |
| Enforcement Once reference number: | |
| CMS reference number: | |
| EU Offer version: | |

How to complete this form: Please complete Parts 1, 2, 3 and 4 of this form including the Declaration in Part 5. Please refer to Schedule 1 'Further Information on Making Your Offer' for advice on completing this form and our criteria for accepting and rejecting Enforcement Undertaking offers.

Note: If necessary, please complete your offer on a separate sheet and attach to this form when submitting your offer to us.

Once complete, submit your offer by sending it to:

☐ By post: Environment Agency, Enforcement Once, PO Box 786, Warrington, WA4 1WW
☐ By email: CSEO@environment-agency.gov.uk

Advice and guidance: If requested, we will provide you with advice and guidance on making an offer, however, we will not enter into negotiations with you, as the actions you wish to offer are a matter for you. You may also wish to seek your own independent legal advice.

Important! The Environment Agency can accept or reject your offer.

Further assistance: If you require any help or assistance with completing this form and/or wish to discuss your offer before submitting it, please contact us:

☐ By telephone: 03708 506 506 (Mon-Fri, 9am – 6pm)
☐ By email: CSEO@environment-agency.gov.uk

Our standards: We will normally acknowledge our receipt of your offer within 3 calendar days. The officer who has been assigned your offer will then contact you within 28 calendar days, with their name and contact details and to provide initial feedback on any omissions or deficiencies with your offer. Once we are in receipt of an offer which meets the basic requirements of an EU, we will then aim to make a formal assessment of your offer within 60 calendar days, however this may take longer depending on factors such as whether the offer is proactive or reactive, the nature, number and complexity of the offences in question or if further information has been requested. We will update you on the progress of your offer at appropriate times.

www.environment-agency.gov.uk

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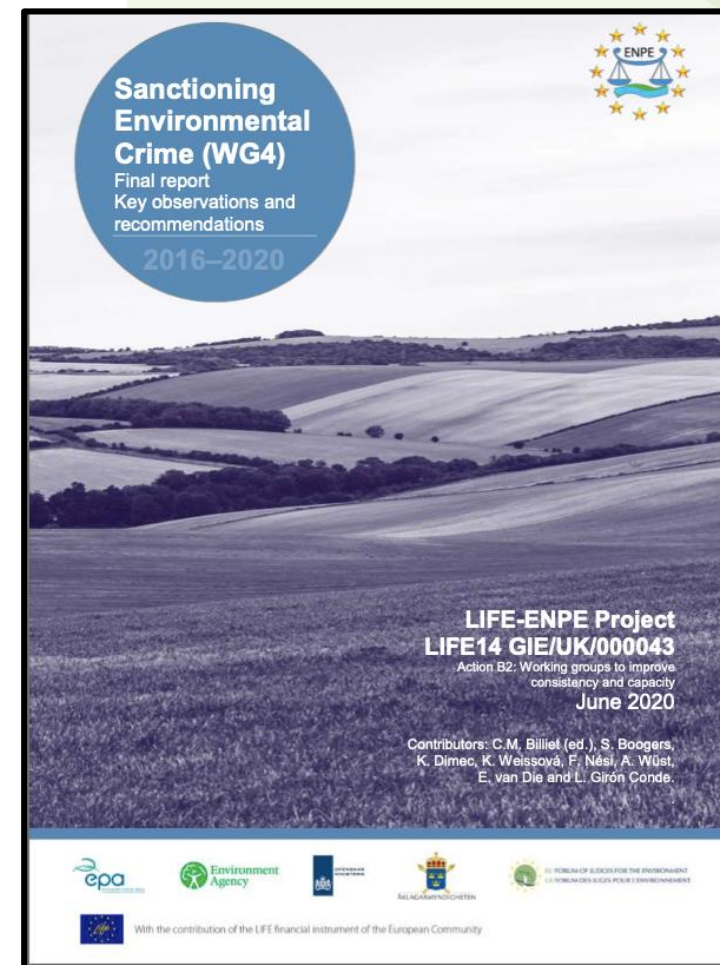


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Issues – ENPE Network

- That both sanctioning tracks, the criminal and the administrative, should allow for punitive and remedial sanctioning



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Environmental Liability Directive

- EU-Wide liability regime for environmental damage
- Based on 'polluter-pays'
- COM Guidelines on scope of environmental damage issued in 2021

| | | | |
|---|----|--|---------|
| 7.4.2021 | EN | Official Journal of the European Union | C 118/1 |
| II | | | |
| (Information) | | | |
| INFORMATION FROM EUROPEAN UNION INSTITUTIONS, BODIES, OFFICES AND AGENCIES | | | |
| EUROPEAN COMMISSION | | | |
| COMMISSION NOTICE | | | |
| Guidelines providing a common understanding of the term 'environmental damage' as defined in Article 2 of Directive 2004/35/EC of the European Parliament and of the Council on environmental liability with regard to the prevention and remedying of environmental damage | | | |
| (2021/C 118/01) | | | |
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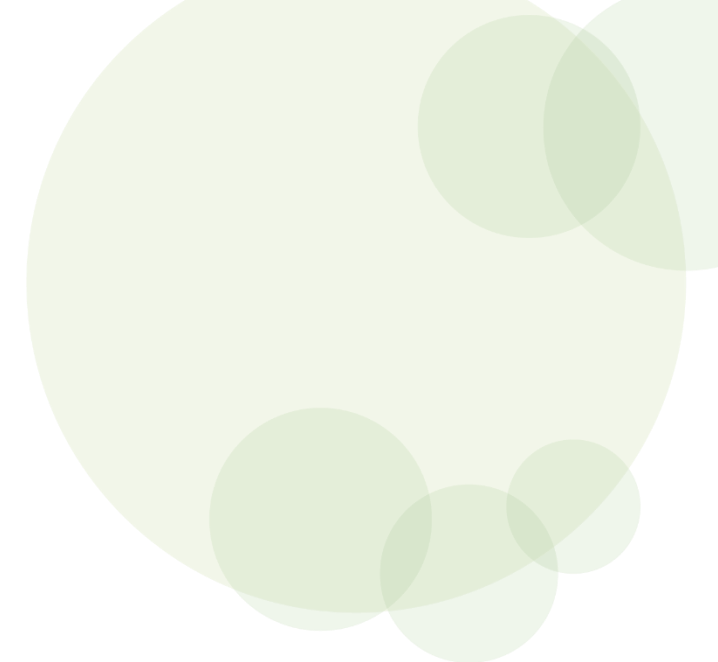


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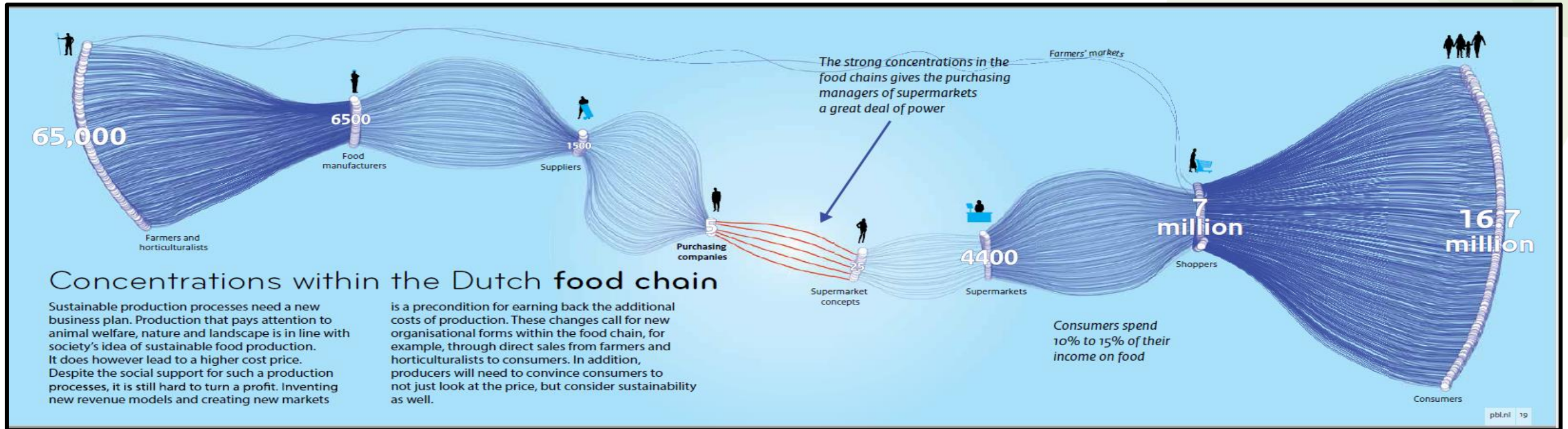
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Regulatory Problem Solving

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| Farmers | Food Manufacturers | Suppliers | Purchasing Companies | Supermarket Chains | Supermarkets | Shoppers | Consumers |
|---------|--------------------|-----------|----------------------|--------------------|--------------|----------|-----------|
| 65,000 | 6,500 | 1,500 | 5 | 25 | 4,400 | 7M | 16.7M |

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TYPES OF BEHAVIOUR AND RESPONSES



Champion



Compliant



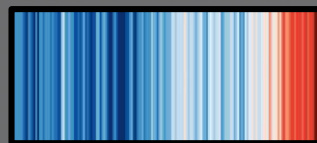
Confused



Careless



Under-resourced



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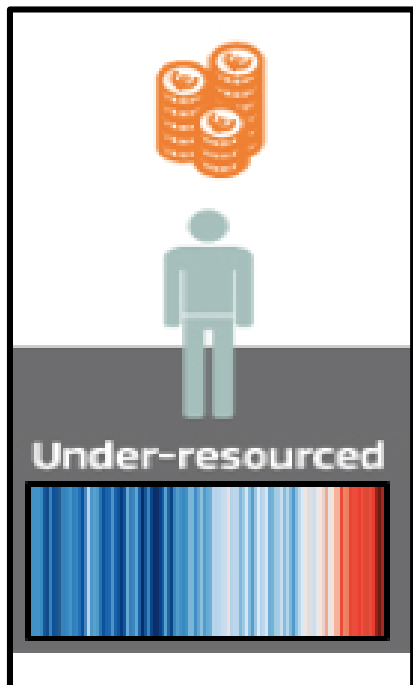
European
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Transition to a green or circular economy



- Goal: Avoidance of legacy sites & issues
- EU Landfill Directive
- 2035 target 10% or less of municipal waste generated to landfill
- Result: Reduction of waste to landfill = reduction in profit at landfill making landfills decreasingly viable and more likely to close prematurely.

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New approaches by regulators



Monitoring

Enforcement

Promotion

Compliance Assurance

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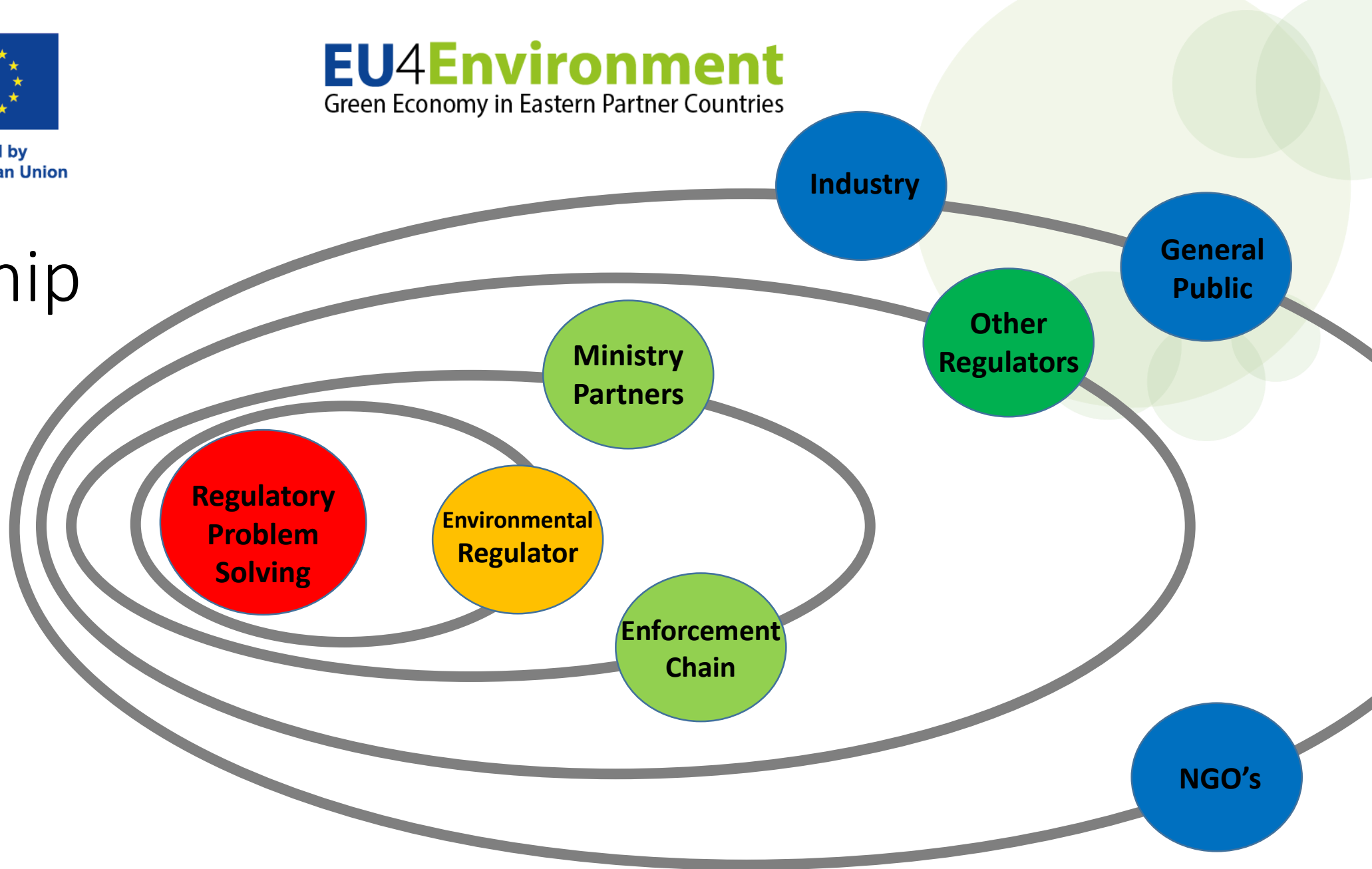


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Partnership Working

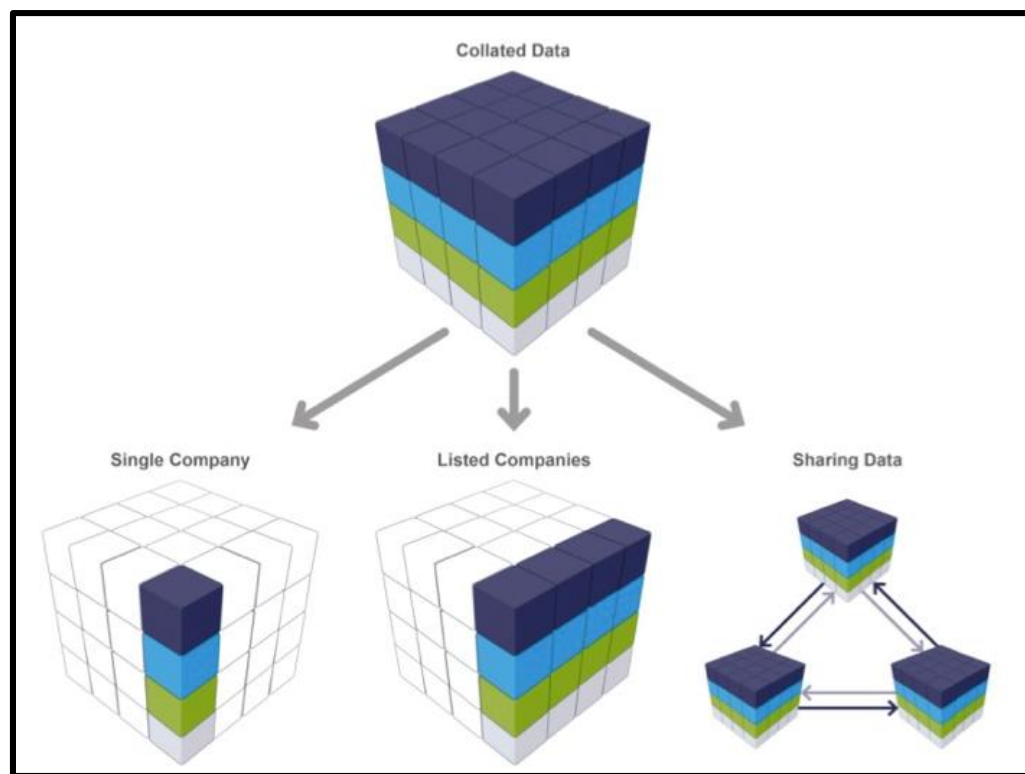


NGO's



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Use of Data – Life+ CLEAR info Project



- aimed to join up regulatory data with business information to identify environmental risks and opportunities.
- English Environment Agency & Finnish Environment Ministry+

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Use of Data - Netherlands - ILT Analytics Unit



- Problem: Which ships entering the Netherlands are using high Sulphur content fuel?
- Electronic analysis of ships manifest information to identify which ports the ship had sailed via.
- Those sailing via ports of concern could be tested via drone & appropriate sensor.
- ILT – Human Environment and Transport Inspectorate

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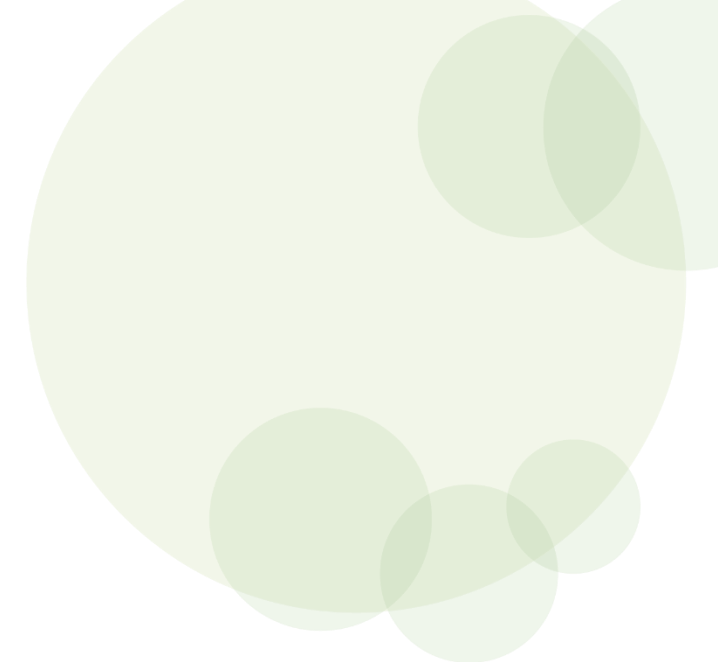
Ever growing regulatory toolkit



N+1 (where N = the number you started with)

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Topic 4. Further resources on related topics

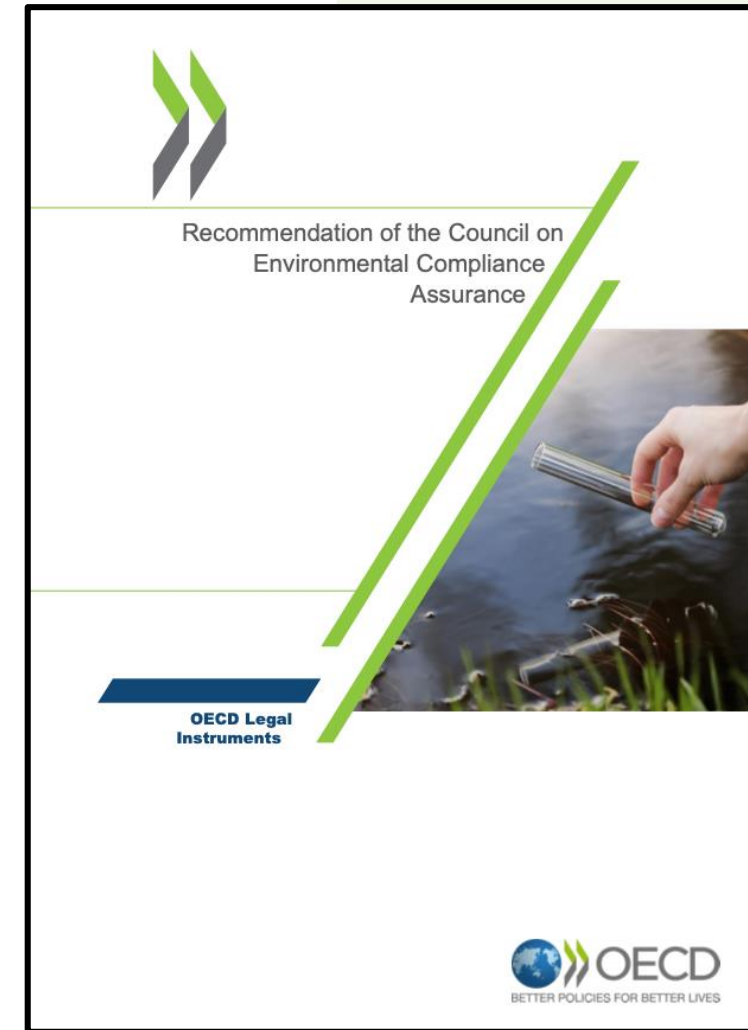
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Resource.

OECD Recommendation of the Council on Environmental Compliance Assurance

OECD/LEGAL/0494 – Published 2023



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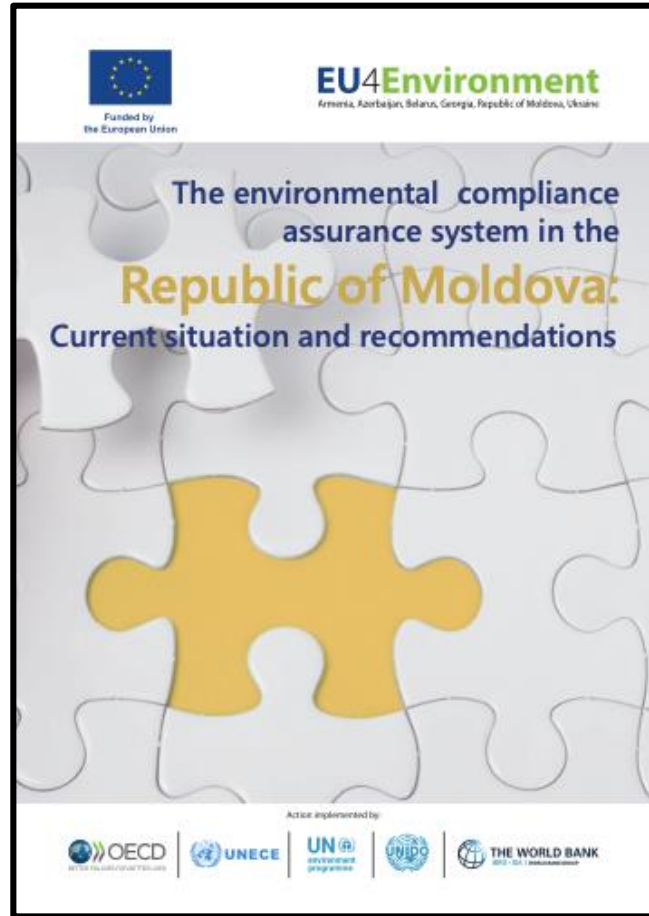
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Resource.

OECD Country Reviews & IMPEL Review Initiative Reports



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and Enforcement of Environmental Law

IMPEL REVIEW INITIATIVE (IRI)

“A voluntary scheme for reporting and
offering advice
to environmental authorities”

IRI Report that took place in Tallinn, Estonia
25.02.19 – 01.03.19





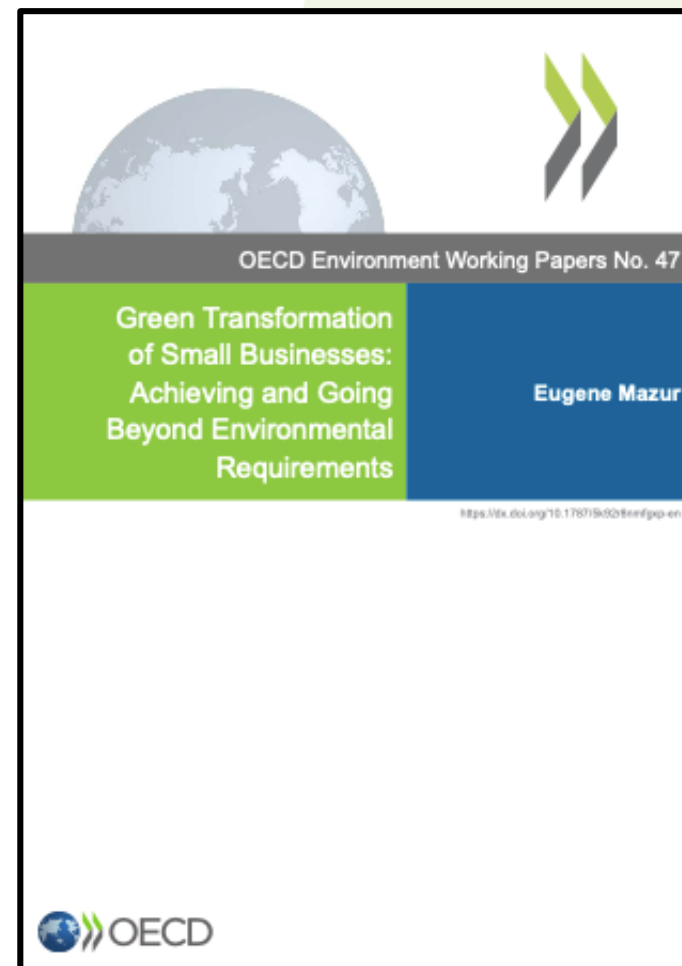
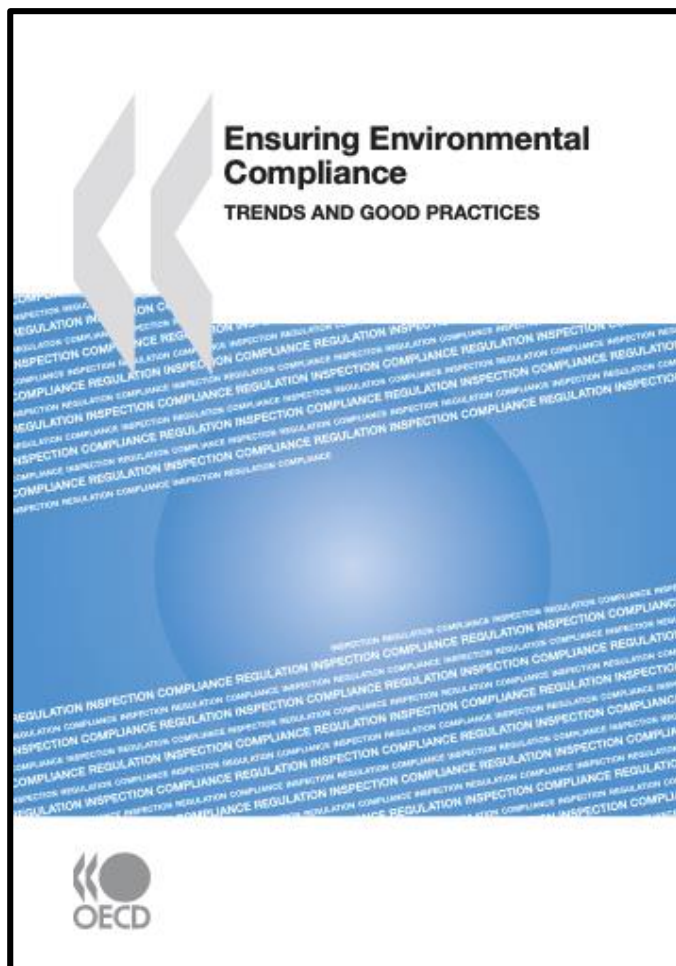
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Resource.

OECD Online Library



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Collaboration with EU Networks



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End – Thank you for your attention

We hope you found this useful – please note there are two previous presentations in this series.

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