‘Smart Enforcement: How to Target Environmental Law Enforcement in Times of Crisis’
EFFACE Mid-term Conference

Ensuring Compliance with Union Environment Legislation
Miroslav Angelov
Better Implementation and Enforcement as a Priority

2012 Commission Communication on Implementation and 7th Environment Action Programme set priorities:

- Improve and actively disseminate knowledge on implementation and enforcement
- Extend requirements on environmental inspections
- Improve access to justice and complaint handling
- Enhance cooperation at EU and international level between networks of environmental professionals
Context

1. Diversity of legislation

2. Many duty-holders
   *Large industries, SMEs, municipalities and environmental utilities, farmers and landowners, hunters and recreational users etc.*

3. Various categories of obligations
   *Prohibitions, restrictions, permit and procedural requirements*

4. Diversity of responsible bodies
   *Specialist environment agencies, local authorities, police, prosecutors, customs etc.*

5. EU-wide and geographically limited problems
   *e.g. waste and wildlife trafficking, illegal water abstraction*
Limitations of the current framework

- RMCEI limited in scope and content, non-binding and mainly focused on industrial and some other fixed facilities
- Existing sectoral binding provisions limited in scope. Not covered for instance are: illegal activities in relation to EU nature legislation, illegal water abstraction and waste shipments, trade in endangered species
- Need for effective co-ordination within and between individual MS not adequately addressed
- Large disparities concerning capacity, organisation and functioning of national inspections systems
- Poor levels of follow-up of environmental inspection reports in some MS
- Lack of capacity and resources; weak performance evaluation
- Role of the Commission not properly defined
How to ensure environmental compliance: the compliance assurance chain

Environmental inspections have 3 key tasks:
- Detection of non-compliance
- Characterisation of non-compliance
- Identification of offenders

Inspections are part of the compliance assurance system
Model used by Scottish Environmental Protection Agency (SEPA)
Main concepts for upgrading the current framework

Horizontal and strategic approach
Main goals: greater environmental compliance and level playing field for businesses
Risk-based approach, flexibility and streamlining of inspection work
Transparency
No new substantial obligations for duty holders
Ensuring proportionate response to different types of non-compliant behaviour
Strategic and operational risk assessment

Strategic level
- Risks of non-compliance
- Impacts of non-compliance
- Overall strategy for tackling compliance problems

Operational level
- Planning and targeting of inspections
- Random inspections necessary too?
- Factors to be considered; self-monitoring just an element amongst others
Possible elements of COM initiative on environmental inspections

Basic requirements for inspection and surveillance systems (independence, impartiality, coordination, etc.)

General strategy for compliance assurance, i.e. links to compliance promotion and enforcement

Maintain dual approach to inspections: routine, non-routine

Use of risk assessment to prioritise most serious forms of non-compliance; inspection planning

Co-operation and co-ordination within Member States and across Member States

Governance and transparency (complaints, public participation, data collection and evaluation)

EU level (peer reviews, possible Commission powers)
Governance

Complaint handling: registration, confidentiality and feedback
Public consultation on prioritisation strategy
Data collection and management: electronic records, spatial information
Active dissemination of enforcement information
Periodic evaluation of effectiveness and efficiency of compliance assurance work
Importance of network cooperation and dialogue with the regulated community

Complementary roles of compliance promotion, inspections and enforcement

Added value of network cooperation

Role of business associations

Self-organisation and self-monitoring
Thank you for your attention!