

Welcome to the Consultation on the Revision of the EU Framework on Environmental Inspections.

The questionnaire is intended to inform a possible initiative on the revision of the EU framework on environmental inspections. More information on the current revision process can be found in the accompanying consultation documents and links.

The questionnaire should take approximately 35-40 minutes of your time. Your answers are saved as long as a network connection is established. If your browser is closed it might be possible to recover answers, but this however cannot be guaranteed. For this reason, we encourage you not to interrupt the session once you have started the questionnaire. You may wish to download the text of the questionnaire from the main consultation page in order to examine the questions and elaborate on your replies before starting an on-line session.

Once you have submitted your answers, you will have the option to download a copy of your answers.

Unless you specify otherwise, your contribution will be published on the Commission's website.

In addition to a number of introductory questions, the questionnaire contains 28 questions organised in the following clusters:

- Level playing field - the overall role of enforcement, in particular inspections
- Role of compliance promotion
- Co-ordination and streamlining of enforcement and, where appropriate, compliance promotion within Member States
- Criteria for organising, planning, carrying out and following up environmental inspections within Member States
- Co-operation on trans-boundary inspection work
- EU level capacity on environmental inspections
- Data, assessment of effectiveness and transparency

Within the questionnaire, each cluster provides guidance on the intended meaning of the different terms and the objective of the specific questions. Most of the questions are multiple choice and invite the respondents to indicate how necessary or useful a specific inspection related type of work would be. A number of questions invite the respondents to provide information and/or comments, including web-links that the respondents think are relevant and useful.

This document does not represent an official position of the European Commission. It is a tool to explore the views of interested parties. The suggestions contained in this document do not prejudge the form or content of any future proposal by the European Commission.

Questions marked with an asterisk \*require an answer to be given.

## Introductory questions

A. Please indicate the country where you reside or where your organisation is principally based:

\*  
(compulsory)

- |  |                                 |                                   |                                      |
|--|---------------------------------|-----------------------------------|--------------------------------------|
| <input checked="" type="radio"/> Austria | <input type="radio"/> France    | <input type="radio"/> Luxembourg  | <input type="radio"/> Spain          |
| <input type="radio"/> Belgium            | <input type="radio"/> Germany   | <input type="radio"/> Malta       | <input type="radio"/> Sweden         |
| <input type="radio"/> Bulgaria           | <input type="radio"/> Greece    | <input type="radio"/> Netherlands | <input type="radio"/> United Kingdom |
| <input type="radio"/> Cyprus             | <input type="radio"/> Hungary   | <input type="radio"/> Poland      | <input type="radio"/> Rest of Europe |
| <input type="radio"/> Czech Republic     | <input type="radio"/> Ireland   | <input type="radio"/> Portugal    | <input type="radio"/> Outside Europe |
| <input type="radio"/> Denmark            | <input type="radio"/> Italy     | <input type="radio"/> Romania     |                                      |
| <input type="radio"/> Estonia            | <input type="radio"/> Latvia    | <input type="radio"/> Slovakia    |                                      |
| <input type="radio"/> Finland            | <input type="radio"/> Lithuania | <input type="radio"/> Slovenia    |                                      |

B. To which one from the following categories do you belong?

\*  
(compulsory)

- Citizen
- Organisation
- Public authority
- Trans-European network or organisation of environmental professionals
- National network or organisation of environmental professionals
- Business
- Business organisation
- Environmental organisation
- Outdoor recreational organisation
- Academic body
- Other
- National authority with environmental enforcement tasks
- Regional or local authority with environmental enforcement tasks
- Other

C. Please indicate your name if responding as a citizen or the name of your organisation/public authority if responding as an organisation/public authority, together with the email address.

If you are responding on behalf of an organisation or public authority, please indicate also the postal address of your organisation/authority.

If your organisation is registered in the Interest Representative Register, please indicate also your Register ID number. (Maximum 500 characters)

\* (compulsory) (between 3 and 500 characters; count: 0)

Austrian Federal Economic Chamber (WKO)	<input type="text"/>
Interest Representation	<input type="text"/>
Register No 10405322962-08	<input type="text"/>

D. Unless you specify otherwise, your contribution will be published on the Commission's website. Please indicate here if you wish your contribution to be anonymous for purposes of publication. For full information please see the Privacy Statement on the bottom.

\* (compulsory)

- You can publish this contribution as it is
- Please make this contribution anonymous

## SECTION 1

Level playing field - the overall role of enforcement, in particular inspections

### Explanation of Questions 1-4

Questions 1-4 are aimed at seeking views on the importance of a level playing field for implementation of EU environment legislation and the necessity of enforcement, including inspections, within individual Member States, across the EU as a whole and in relation to a number of specific environmental subject-areas.

"**Enforcement**" means checks and controls, notably inspections, and follow-up measures aimed at identifying, investigating, characterizing, ending and, where necessary, remediating situations of non-compliance. It may involve one or more than one enforcement authority. For example, an authority may be competent to both inspect and criminally prosecute non-compliance or the inspection and prosecution roles may be divided between two separate authorities.

"**Environmental inspections**", in broad terms, involve checks on the ground and at installations (such as site visits and checks on records, documentation, equipment and processes) as to whether, first, specific facilities or operations are compliant with applicable environmental requirements and, second, as to whether there are any significant activities of an illegal nature taking place across a particular territory and having an impact on the environment.

The environmental subject-areas in Question 4 are ones which are currently either not covered or covered only to a limited extent by existing EU-level criteria on inspections.

### Question 1

How necessary is it for implementation of EU environment legislation to be based on the achievement of a **level playing field**, i.e. on ensuring that similar activities attain a similar level of compliance across the EU?

\* (compulsory)

- Very necessary
- Necessary
- Somewhat necessary
- Not necessary
- No opinion

**Question 2**

In order to achieve compliance with EU environment law in the Member State where you are based, how necessary is it that the Member State authorities undertake enforcement work, including inspections?

\*  
(compulsory)

- Very necessary
- Necessary
- Somewhat necessary
- Not necessary
- No opinion

**Question 3**

In order to achieve compliance with EU environment law in the EU as a whole, how necessary is it that all Member States undertake comparable enforcement work, including inspections?

\*  
(compulsory)

- Very necessary
- Necessary
- Somewhat necessary
- Not necessary
- No opinion

**Question 4**

How necessary is it to have enforcement work, including inspections, in the following areas?

a) compliance of environmental infrastructure such as landfills and urban waste-water collecting and treatment systems with EU standards

\*  
(compulsory)

- Very necessary
- Necessary
- Somewhat necessary
- Not necessary
- No opinion

b) abstraction of water in areas affected by water scarcity

\*  
(compulsory)

- Very necessary
- Necessary
- Somewhat necessary

- Not necessary
- No opinion

c) activities that may cause **diffuse water and land pollution**, e.g. land-spreading of animal fertilizers

\*  
(compulsory)

- Very necessary
- Necessary
- Somewhat necessary
- Not necessary
- No opinion

d) activities that may result in the **destruction of or damage to protected natural habitats**, for example unauthorised destruction of wetlands or damage to forests

\*  
(compulsory)

- Very necessary
- Necessary
- Somewhat necessary
- Not necessary
- No opinion

e) activities that may result in **harm to protected species**, for example illegal poisoning of birds of prey

\*  
(compulsory)

- Very necessary
- Necessary
- Somewhat necessary
- Not necessary
- No opinion

f) **unlawful movements and disposal of waste**

\*  
(compulsory)

- Very necessary
- Necessary
- Somewhat necessary

- Not necessary
- No opinion

**g) unlawful trade in endangered species and their products**

\* (compulsory)

- Very necessary
- Necessary
- Somewhat necessary
- Not necessary
- No opinion

**h) unlawful use of and trade in chemicals**

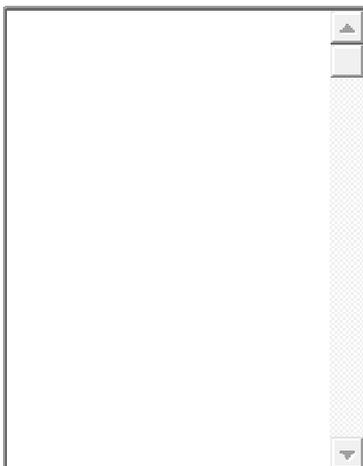
\* (compulsory)

- Very necessary
- Necessary
- Somewhat necessary
- Not necessary
- No opinion

**i) are there, in your view, other areas of EU environment policy for which it is necessary that all Member States undertake enforcement work, including inspections?**

\* (compulsory)

- Yes
- No



## SECTION 2

### Role of compliance promotion

#### Explanation of questions 5 to 7

Questions 5 to 7 are aimed at seeking views on the role of compliance promotion activities as measures complementary to inspections and other forms of enforcement.

To understand the potential role of compliance promotion, it is useful to first characterise the "**regulated community**", i.e. all the businesses, individuals and other entities obliged to respect specific environmental requirements, such as for example the requirement to hold a waste permit. This would allow then the competent authorities to analyse the behaviour of non-compliant actors, to identify the reasons and drivers for non-compliance and to choose the appropriate intervention in individual cases or in relation to specific categories of actors within the regulated community. For example, the Scottish Environmental Protection Agency ("SEPA") has broken the regulated community into the following categories: "champions", i.e. those who do more than the minimum needed to comply; compliant; careless and confused, "chancers", i.e. opportunistic law-breakers; and criminals. For some categories, education and engagement may have an important role to play in securing compliance. This is where "compliance promotion" enters the picture.

"**Compliance promotion**" means activities undertaken by or on behalf of Member State authorities with a view to educating or enabling the regulated community to comply with environmental requirements. Examples include: advisory services, published guidance, Frequently Asked Questions, information campaigns targeted at specific categories such as small and medium-sized and micro-enterprises ("SMEs") or farmers, and awareness-raising events.

"**Cost-effectiveness**" in Question 6 relates to the potential that compliance promotion has to make enforcement more cost-effective for the public authorities/bodies responsible for enforcement. In particular, by making it easier for the regulated community, i.e. businesses, individuals and other entities to understand how best to comply with requirements, compliance promotion may increase overall levels of compliance and thus reduce the problems that public authorities/enforcement bodies need to address.

"**Administrative burden**" in Question 7 means the costs for businesses and citizens to comply with obligations resulting from EU environment legislation and national legislation transposing it. By making it easier to understand how to comply with requirements, compliance promotion may reduce the costs and risks arising from a lack of awareness.

#### Question 5

In order to achieve compliance with EU environment legislation, how important is it to educate and enable the regulated community to comply with EU environment legislation?

\*  
(compulsory)

- Very important
- Important

- Somewhat important
- Not important
- No opinion

**Question 6**

On a scale of 1-5 (1=least, 5=most), how would you rate the contribution that compliance promotion work can make to the **cost-effectiveness** of enforcement work of the competent authorities at national, regional and local level?

\*  
(compulsory)

- 1
- 2
- 3
- 4
- 5

**Question 7**

On a scale of 1-5 (1=least, 5=most), how would you rate the contribution that compliance promotion work can make to the **reduction of administrative burden** for the regulated community?

\*  
(compulsory)

- 1
- 2
- 3
- 4
- 5

## SECTION 3

**Co-ordination and streamlining of enforcement and, where appropriate, compliance promotion, within Member States**

### Explanation of Questions 8-12

Questions 8-12 are aimed at seeking views and information on the strategic organization of enforcement and compliance promotion work, including inspections, within Member States. The questions arise in a context in which it is already known that many different national bodies have responsibilities in relation to enforcement of EU environment legislation - amongst others, general environment agencies, specialist environmental inspectorates, environmental prosecutors, nature agencies, regional and local authorities, and customs authorities.

"**Co-ordination and streamlining**" means ensuring that the work of different national, regional and local bodies with responsibilities for enforcement, including inspection, and compliance promotion covers all relevant subject-areas,

avoids duplication of tasks between enforcement bodies, avoids duplication of what is expected from the regulated community, and involves a high degree of inter-agency co-operation and experience- and intelligence-sharing. Co-ordination and streamlining may involve mechanisms such as use of the following:

- a central coordinating body;
- internal Member State networks of responsible bodies;
- memoranda of understanding and similar forms of co-operation between different responsible bodies.

Co-ordination and streamlining may concern both authorities with main responsibilities in environmental policy and authorities with main responsibilities in other policy areas but with relevance for the environmental sector, such as customs, police, prosecutors and others. Co-ordination is a point strongly emphasised by the Committee of the Regions which has underlined the importance of closely involving regional and local authorities in implementation tasks. The creation and use of internal Member State enforcement networks that include the regional and local levels may be one means of securing co-ordination. "**Cost-effectiveness**" in Question 10 relates to the potential role that co-ordination and streamlining can play in ensuring that enforcement and compliance promotion does not give rise to unnecessary costs for public administrations - as where different responsible bodies duplicate tasks or fail to share information or intelligence.

"**Administrative burden**" in Question 11 relates to the burden of the regulated community in dealing with different responsible bodies. Co-ordination and streamlining may mean that enforcement bodies avoid duplicating inspections of the same regulatees.

"**A published overall strategy for enforcement and compliance promotion**" means a document in which a government or responsible body sets out the overall national policy framework for enforcement and compliance promotion work in relation to EU environment legislation. It may describe:

- the main implementation and enforcement challenges that require effective controls;
- the bodies responsible for each step in terms of environmental controls and follow-up and how they inter-act;
- objectives of enforcement and compliance promotion work;
- the means for fulfilling these objectives and for ensuring that the work of control bodies is fully integrated.

"**Periodically**" in relation to Question 12 is likely to refer to periods of between one and four years.

#### Question 8

How important is it for a Member State to **co-ordinate and streamline** enforcement and compliance promotion work, including inspections, amongst all the different national, regional and local bodies responsible for ensuring compliance with EU environment legislation?

\*  
(compulsory)

Very important

- Important
- Somewhat important
- Not important
- No opinion

**Question 9**

For the Member State where you are based, are you aware of **arrangements for co-ordinating and streamlining enforcement and compliance promotion work**, including inspections, amongst all the different national, regional and local bodies responsible for ensuring compliance with EU environment legislation?

\* (compulsory)

- Yes
- No

F.e. in Austria  
Yearly meetings of chemical inspectors  
REACH-Platform  
Meetings of provincial waste policy officers  
("Landesabfallreferententage"), water policy officers  
("Wasserrechtsreferententage"), industrial and small manufacturing installations officers  
("Gewerbereferententage")

**Question 10**

On a scale of 1-5 (1=least, 5=most), how much can co-ordination and streamlining of enforcement and compliance promotion work contribute to the **cost-effectiveness of such work**?

\* (compulsory)

- 1
- 2
- 3
- 4
- 5

**Question 11**

On a scale of 1-5 (1=least, 5=most), how much can co-ordination and streamlining of enforcement and compliance promotion work contribute to the **reduction of administrative burden for the regulated community**?

\* (compulsory)

- 1
- 2
- 3
- 4
- 5

**Question 12**

How useful would it be for all stakeholders if each Member State periodically published an overall strategy for enforcement and compliance promotion in relation to EU environment legislation?

\* (compulsory)

- Very useful
- Useful
- Somewhat useful
- Not useful
- No opinion

**Question 13**

For the Member State where you are based, are you aware of a published overall strategy for enforcement and compliance promotion in relation to EU environment legislation?

\* (compulsory)

- Yes
- No

There are informal strategies for parts of env. legislation enforcement and compliance but no overall strategy, such as:

## SECTION 4

### Criteria for organising, planning, carrying out and following up environmental inspections within Member States

#### Explanation of Questions 14-20

Questions 14-20 are aimed at seeking views on the importance of further refining the existing criteria on environmental inspections. The existing criteria are found in Recommendation 2001/331/EC providing for minimum criteria for environmental inspections (RMCEI)

[http://eur-](http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32001H0331:EN:NOT)

[lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32001H0331:EN:NOT](http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32001H0331:EN:NOT).

"Risk criteria" refer to parameters used for evaluation of the likelihood of non-compliance of members/branches of the regulated community, and thus for

efficient planning and targeting of environmental inspections. Questions 14-17 relate to these.

"**Cost-effectiveness**" in Question 16 relates to the potential that risk criteria have to make enforcement more cost-effective. In particular, by targeting inspection work on situations where the risks of breaches are greatest and/or likely to do the greatest harm to the environment, risk criteria may make inspection work more effective in terms of the costs relative to the results.

"**Administrative burden**" in Question 17 means the costs for businesses and citizens to comply with obligations resulting from EU environment legislation and national legislation transposing it. By targeting inspection work on situations where the risks of breaches are greatest and/or likely to do the greatest harm to the environment, risk criteria may give the regulated community confidence that inspection work will avoid unnecessary inspections on the compliant members of the regulated community.

Question 18 is closely related. It concerns the possible role of inspection bodies in identifying systemic or potential **systemic breaches**, preferably at an early stage. Rather than tackling numerous similar breaches in isolation from each other, it may be useful to develop a broad follow-up strategy.

Question 19 relates to the potential **role of the public** and their associations in helping inspection bodies to identify breaches. Members of the public may, for example, help enforcement bodies to identify illegal waste disposal sites or incidents. Authorities may facilitate this by developing - or encouraging the development of - information technology applications

Question 20 relates to **effective follow-up** wherever an inspection detects non-compliance. Depending on the circumstances, effective follow-up could include one or more of the following:

- Commitment by the regulatee to end the non-compliant behaviour;
- Investment by the regulatee to end the breach;
- Remediation of environmental harm or damage caused by the breach;
- Imposition of a fine or other sanction.

#### Question 14

On a scale of 1-5 (1=least, 5=most), how would you rate the usefulness of organising inspection work on the basis of clear **risk criteria**?

\*  
(compulsory)

- 1
- 2
- 3
- 4
- 5

#### Question 15

If you agree that inspections should be based on risk criteria, how important is it to use **inspection methodologies** that are appropriate to the identified risks?

\*  
(compulsory)

- Very important
- Important
- Somewhat important
- Not important
- No opinion

**Question 16**

On a scale of 1-5 (1=least, 5=most), how would you rate the contribution that a risk-based approach can make to the **cost-effectiveness** of enforcement work by the competent authorities?

\*  
(compulsory)

- 1
- 2
- 3
- 4
- 5

**Question 17**

On a scale of 1-5 (1=least, 5=most), how would you rate the contribution that a risk-based approach can make to the **reduction of administrative burden** for the regulated community?

\*  
(compulsory)

- 1
- 2
- 3
- 4
- 5

**Question 18**

How important is it that inspection bodies identify and analyse **systemic breaches** of environment law, preferably at an early stage?

\*  
(compulsory)

- Very important
- Important
- Somewhat important
- Not important

No opinion

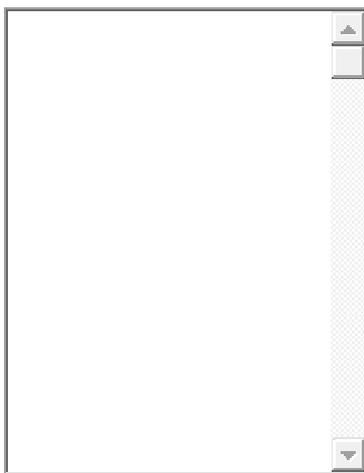
#### Question 19

Do you think that a system of environmental inspections should provide in a structured way possibilities for **members of the public and their associations** to alert the competent authorities to environmental problems on the ground, such as illegal waste sites or illegal water discharges?

\* (compulsory)

Yes

No



#### Question 20

How important is it to ensure that, where inspection work shows non-compliance with EU legislation, effective and proportionate **follow-up action** is taken by the responsible national, regional and local authorities to achieve compliance

\* (compulsory)

Very important

Important

Somewhat important

Not important

No opinion

## SECTION 5

### Co-operation and coordination between Member States on trans-boundary inspection work

#### Explanation of questions 21-22

Questions 21-22 are aimed at seeking views on the importance of having provisions on modalities of co-operation and coordination in relation to inspection work with a cross-border dimension. This is relevant for situations where environmentally sensitive goods - such as waste, chemicals and traded endangered species - cross borders. It is also relevant where there are continuous natural systems - such as a river or lake or Natura 2000 site - which straddle

frontiers and are subject to environmental pressures in all the Member States concerned.

"Co-operation and coordination" covers the ways in which the different Member States concerned agree that there are important common issues to be addressed and the practical ways, i.e. modalities, for dealing with these common issues. It is important to underline that this section concerns Member State to Member State relations - a possible role for the Commission is addressed in the next section.

The following are **possible mechanisms** for identifying issues of common interest:

- **Central Member State coordinating bodies** might have amongst their tasks the identification of subject areas with a cross-border dimension
- **Networks or fora** established for particular sectoral issues might exchange and agree priorities
- Where an unforeseen cross-border problem arises there might be a **mechanism** for one coordinating body to inform and engage the **assistance** of another coordinating body

The following are **possible mechanisms** for achieving cooperation and coordination at the operational level:

- Possibility of **peer review audits** of the kind that IMPEL already undertakes
- **Joint inspection and surveillance operations**. These may involve vesting invited inspectors with powers equivalent those of inspectors in the host Member States. They may also involve the preparation of joint reports
- Mechanisms under which on the basis of reasons for due concern the coordinating inspection body in one Member State can formally seek the co-operation of the coordinating inspection body in another Member State for purposes of addressing a cross-border problem (**administrative assistance**)

#### Question 21

On a scale of 1-5 (1=least, 5=most), how would you rate the usefulness of having in place **mechanisms for identifying cross-border issues** of common concern to enforcement bodies in more than one Member State?

\* (compulsory)

- 1
- 2
- 3
- 4
- 5

#### Question 22

On a scale of 1-5 (1=least, 5=most), how would you rate the usefulness of having **mechanisms for operationalizing cooperation and coordination** between different Member State enforcement bodies in relation to cross-border issues of common concern?

\* (compulsory)

- 1
- 2
- 3
- 4
- 5

If you wish to add comments regarding questions 21 and 22, please do so in the comment box below.

(optional) (between 3 and 500 characters; count: 0)

REACH Forum is an appropriate tool to harmonise enforcement and could be used as a model for other legislation.

## SECTION 6

### EU level capacity on environmental inspections

#### Explanation of questions 23-25

Questions 23-25 are aimed at seeking views on the value of creating an explicit role for the Commission in relation to national inspection systems in certain limited circumstances.

Question 23 relates to a role for the Commission already found in **Article 28 of the Regulation (EC) 1005/2009 on ozone depleting substances** (<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32009R1005:en:NOT>). According to this provision, the Commission has the explicit power to request Member States to "carry out the investigations which the Commission considers necessary under this Regulation".

Question 24 is related to Section 5 of this questionnaire and is aimed at seeking views on the value of a **"fall-back" role for the Commission** in case Member States cannot agree on how to address a shared cross-border problem.

Question 25 is related to a role for the Commission already found in **Article 35 of the Directive 2010/63/EU on the protection of animals used for scientific purposes** (<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2010:276:0033:0079:EN:PDF>). According to this provision, the Commission is explicitly entitled to "undertake controls of the infrastructure and operation of national inspections in Member States", and the Member States are obliged to take measures to take account of the results of these controls.

### Question 23

On a scale of 1-5 (1=least, 5=most), how would you rate the usefulness of **establishing explicit power** for the Commission to request Member States to undertake concrete inspection activities on a case-by-case basis in specific situations and to report to the Commission on their outcome?

\*  
(compulsory)

- 1
- 2
- 3
- 4
- 5

### Question 24

On a scale of 1-5 (1=least, 5=most), how would you rate the usefulness of having a **limited co-ordination role** for the Commission, for example when Member States are unable to agree on appropriate action to address non-compliance problems with a significant and already manifest cross-border dimension?

\*  
(compulsory)

- 1
- 2
- 3
- 4
- 5

### Question 25

On a scale of 1-5 (1=least, 5=most), how would you rate the usefulness of **establishing a role** for the Commission to carry-out assessments of national inspection systems where there is evidence of serious failures to comply with EU environment legislation?

\*  
(compulsory)

- 1
- 2
- 3
- 4
- 5

## SECTION 7

**Data collection, assessment of the effectiveness of compliance and enforcement work and transparency**

**Explanation of Questions 26-28**

Questions 26-28 are aimed at seeking views on the importance of **collecting systematic data** on the organisation and outcomes of environmental inspections

and related enforcement and compliance promotion work and having **regular evaluation** of the effectiveness of enforcement and compliance promotion systems and ensuring **transparency** as regards inspection work of competent authorities.

**Question 26**

How important is it for Member States to **collect data on enforcement and compliance promotion work**, including inspections, and its outcomes and impacts?

\*  
(compulsory)

- Very important
- Important
- Somewhat important
- Not important
- No opinion

**Question 27**

How important is to have at Member State level a duty to periodically **review and evaluate the performance** of their enforcement and compliance promotion system, including the performance of individual enforcement bodies?

\*  
(compulsory)

- Very important
- Important
- Somewhat important
- Not important
- No opinion

**Question 28**

How important is to **actively disseminate information** on enforcement and compliance promotion work to the wider public, such as number of inspections in individual areas/sectors, findings of inspection reports, non-compliance rate detected and follow-up measures, for instance through online publication?

\*  
(compulsory)

- Very important
- Important
- Somewhat important
- Not important
- No opinion