
COLLABORATION IN ENVIRONMENTAL ENFORCEMENT: EXPERIENCES WITH THE BUILD-UP OF A COORDINATED ENFORCEMENT STRUCTURE

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SUMMARY

The enforcement of environmental regulation in the Netherlands is the task of several administrations, police, and Public Prosecutor. Enforcement as an instrument of environmental policy is a growing field of interest for each of the bodies concerned. Their activities have been uncoordinated until 1990.

The Province of Limburg started with the build-up of a coordinated enforcement structure in order to achieve coordination of activities in 1991. A general view of the enforcement structure and the participants is given. The problems in building up such a structure are described. Some suggestions are made about how to improve the collaboration.

1 INTRODUCTION

Limburg is one of the twelve provinces in the Netherlands. It is the most southern province, and its borders are for the most part also the national borders. It borders on Germany and on Belgium (Flanders as well as the Walloon provinces in Belgium). It has 2.209 km² and 1,1 million people. Major sources of pollution are industrial activities (chemical industries, power plants), agriculture (very high degree of acidification, pollution of surface water by herbicides and pesticides, extraction of ground water), and winning of surface minerals (gravel, mare, clay for ceramic industry, concrete, and masonry sand).

Permits for industrial or agricultural activities are given by a number of administrations (the Province of Limburg itself, 56 municipal authorities, 3 regional Waterboards, the national Ministry of Traffic and Water, and in some cases the national Ministry for the Environment).

Although the permitting authority is primarily responsible for the enforcement of permits, a great number of other authorities also have a role in establishing compliance to environmental laws: 2 regional police authorities, 2 public prosecutors for the environment, the A.I.D. (National Inspectorate for Agriculture), the border police (customs), and others.

In 1990 the Minister for the Environment, also on behalf of the Ministers for Traffic and Water, for Justice and of Home Affairs prescribed that the environmental enforcement would primarily be a task of the regions and that the provincial authorities would be responsible for the coordination. Such a region consists of each of the municipalities and serves as a forum where consultation about and tuning of policy and actions is possible. When I talk about regions I don't mean a certain territory but the formal body in which the municipalities cooperate. Such a body has administrators that are chosen by the municipalities (mostly mayors or aldermen) and a very small civil service. In Limburg 5 of such regions exist in which all 56 municipalities in the province participate.

2 SKETCH OF THE STRUCTURES

We have decided to set up the enforcement structure on 2 levels:

- The level of the region.
- The level of the provincial territory.

On each of these levels there exists furthermore a body where the administrations meet (the politically responsible) and a body where officials confer.

The province of Limburg, administrators of Environmental Affairs of the 5 regions, the chairmen of the 3 District Water Boards, the director of the Mission of Public Works, the inspectorate for the environment, 2 Public Prosecutors, 2 commanders of police, and a representative of the A.I.D. (under the chairmanship of the provincial representative) form the provincial territory level.

The task of the province is to determine the annual enforcement program, to stimulate and coordinate the realization and development of the regional consultations to tune enforcement policy, and to identify and discuss bottlenecks.

On the regional level there exists a forum for each of the 5 regions (called R.M.O.). Every community of the region and the other authorities mentioned above have a seat in those R.M.O.'s.

The chairman is the administrator for the environment of this region.

In each of those 5 districts a special coordinator is appointed. I will discuss his role further on.

Broadly speaking we can say that the structure has been realized in a relatively short period.

All necessary authorities have been brought together: Enforcement programs on provincial and regional levels are put up and are in the process of being carried out, many of them in cooperation between several authorities; the official structure, more particularly the work force, has been filled in.

3 EXPERIENCES

It is clear that the execution of good environmental policy and of good environmental enforcement is only successful if every party executes its task in a proper way. In view of the very large autonomy of every authority, a perfect execution is very difficult.

The consultation I described plays an important role in a good coordination and control of the execution of everyone's autonomous and of the common tasks.

A large involvement of public administrators, i.e., deputy of the province and aldermen of the communities and a qualified civil service of all administrations concerned are necessary to obtain this goal.

The decision of the Minister of the Environment to put the responsibility of the execution of environmental enforcement primarily on a regional level is not undisputed.

The regions have no independent task in environmental policy but only tasks derived from municipal tasks. They have no tasks in granting permits. Furthermore the regions have no means to compel the municipalities in a decision process. The decision process in the region can only take place by consent of all municipalities, while on the other hand representatives of the municipalities often get too few mandates.

Besides the democratic control on the region by city councils is arranged in a rather bad way.

We can conclude that all those factors sometimes cause a slow and difficult decision process and it is no wonder that after all it is sometimes difficult to agree on common action.

It will be necessary to find a solution for this impasse: either by giving clear responsibilities to the regional administration, or by giving the representatives of the municipalities a mandate.

If both solutions can not be realized, the responsibility for an adequate enforcement on clear and verifiable agreements has to be divided between separate municipalities and provincial administration.

On first sight this seems a typically Dutch problem, but experiences in and contacts with Germany, the U.K., and Belgium point us in the same direction: an adequate environmental policy can only be realized and enforced by a clear responsibility on a political-administrative level.

Cologne and Aix-la-Chapelle have not been built in one day, as we say in the Netherlands. And this also goes for building environmental policy and a policy on permits and enforcement. Forceful enforcement can only take place when the rules to be enforced meet each of the following requirements:

- Clearness of rules: there must be no room for dispute on the interpretation of the rules.
- Enforcibility of rules: the permit holder or others that are to comply with general rules must be able to comply. Too strict rules that are impossible to comply with for larger groups of plants or persons for economic and/or technical reasons cannot be successfully enforced.
- The rules must have a clear position in the general environmental policy and contribute to the attainment of the goals of this policy.

This may seem trivial to you but I can assure you that in the Netherlands, we still have many problems caused by the fact that not all of the mentioned requirements are met.

Particularly municipalities have problems in formulating environmental policy and setting goals.

None of the participants doubt the advantages of and necessity of cooperation in enforcement, as the enforcement for some companies or activities is the competence of two or more authorities.

Both for the companies and the authorities, coordination of enforcement offers the advantages of efficiency and effectiveness.

The company or citizen concerned meets a well-organized administration that is to be taken seriously. Furthermore their shortcomings are pointed out in one go instead of several. This often can lead, particularly when their problems occur on a larger scale, to a coherent program of measures. For the enforcing administrations it is possible to be able to use the knowledge of their colleagues.

And still ...

In practice everything appears more difficult than in theory; emotions are high about the threat of the loss of autonomy, holding on to own priorities, hesitations to spend the tight budgets on common projects, doubts about competence of colleague-administration. Those and other understandable sensitivities block or slow down the process build-up of enforcement. Cooperation has to grow. Too high expectations, and a too large effort can disturb this process. It's therefore wise to start with not too sizeable cooperation projects where there is benefit for every party. This gives everyone the opportunity to get used to one another and to learn about sensitivities, possibilities, and limitations.

A good example of such a project is the helicopter project. From a helicopter it is possible to overview a large area at high speed and to reach places that are otherwise hardly accessible.

Thus it is possible to scan infringement of general rules, for instance, rules with regard to the disposal of refuse (illegal deposit), to the use of manure (e.g., in periods where it is forbidden to apply manure to the land), to the use of groundwater, etc.

The police put a helicopter with crew at the disposal of one of the administrations involved. Ground support is offered by the administrations concerned. The area to be inspected, the subjects of the inspection, the authority at whose disposal the helicopter is, are all programmed in an enforcement program. Special attention has to be given of course to quick and forceful action by the administration concerned. Sometimes action by police or Public Prosecutor will be necessary. It goes without saying that such action should be well coordinated.

Information plays a key role in a coordinated enforcement structure. The ministerial plan stretches out that in every region there should be a C.I.P. (coordination and information point). Every participant in the regional enforcement structure should both give and receive information of this C.I.P. on several questions concerned. For example: what are the features of the permit for a company given by another administration; does this other administration have a surveillance action in the near future; what is the overall impression of a certain company; are there any special facts which should be taken into account?

No one doubts there is a clear need for such a C.I.P. And it is also clear that for reasons of storage of information and exchange of it, there is a need to develop a provincial-wide standardised and automated information system, based on an objective analysis of commonly agreed upon information need.

Yet there are some big problems in the build-up of such a system. First of all these is the problem of privacy-regulation. Especially in the case of "weak" information, it is very doubtful if it is allowed to store such suggestions and pass them to another authority. This problem is at the moment the subject of discussion in the national Registration Chambre.

But there is another problem which is even more difficult. The point-of-view of participants in a regional coordinated enforcement structure is rather different. The permitting authority is primarily concerned if a certain company does indeed comply to the conditions of the permit. On the other hand the police are only interested if there are suspicions of criminal acts.

4 CONCLUSION

Although the build-up of the regional and provincial enforcement structure was successful and took only two years, there really is no reason to be too satisfied.

There are a lot of rather normal problems which go along with structuring a new organisation; there are new problems, especially those related to information needs; and there is a structural weakness following the choice of the region as primarily responsible for environmental enforcement.

It will be necessary to evaluate the enforcement structure in a few years, and not hesitate to decide for a change when the chosen structure turns out to be too less effective.