
MINIMUM CRITERIA FOR A PROFESSIONAL ENVIRONMENTAL ENFORCEMENT PROCESS, PART II

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SUMMARY

Environmental enforcement agencies (inspectorates) in the Netherlands have adopted a set of minimum criteria or quality standards that should be met by any Inspectorate in order to ensure a professional enforcement process. In an orchestrated campaign from 2002 through 2005, the Inspectorates made an enormous leap forward to accomplish this objective.

1 INTRODUCTION

From 2002 through 2005, a national project was carried out in the Netherlands by all Inspectorates of the local, provincial, and national governments to improve, or rather ensure, a “professional environmental enforcement process” within all these agencies.

This project started by designating the minimum criteria for such a professional process. Consequently, all agencies in the Netherlands went through a self-evaluation process to determine the extent to which they satisfied these criteria on 1 January 2003. As was to be expected, not one of the approximately 550 agencies was completely professional. On the contrary, the vast majority of the Inspectorates could not satisfy more than half of the minimum criteria. This was no surprise, but it was a perfect starting point for a collective improvement activity.

All agencies committed themselves to fulfillment of the criteria by 1 January 2005. Again they conducted a self-evaluation; its results are presented in this paper.

2 THE PROJECT

The project aiming at a “professional environmental enforcement process” in the Netherlands was initiated in 2001 by the then Minister of Housing, Spatial Planning and the Environment, Mr. Jan Pronk. Mr. Pronk proposed a rearrangement of inspecting authorities, in particular to reduce the number of inspecting bodies from 500 to no more than 50.

The competent authorities responsible for the existing Inspectorates successfully opposed this policy by arguing that the main focus should not be the organization of the Inspectorates but rather the quality of their performance. They proposed the development of a set of minimum criteria for a professional environmental enforcement process, thereby ensuring:

- Professional people.
- Professional policies.
- Professional procedures.
- Professional performance.
- Professional products.

The Minister agreed that if the existing Inspectorates could prove that they

satisfied the elaborated set of minimum criteria by January 2005, then the reduction of the number of Inspectorates would become unnecessary. The elaborated set of minimum criteria was developed during the spring and summer of 2002 and was finally adopted on 1 November 2002. To establish a reference for improvements, all Inspectorates conducted a self-evaluation on how they fulfilled the minimum criteria on 1 January 2003. An independent consultant verified all of these self-evaluations. A report was published with the national results of this “zero measurement” and all Inspectorates and authorities had a clear insight into what had to be improved.

The years 2003 and 2004 were used for improvement activities. In the Inspectorates, teams were appointed to develop strategies or protocols. Inspectorates from neighboring municipalities or with similar tasks, such as the 10 bodies of “Rijkswaterstaat” (the Department of Waterways and Public Works), came together to develop methods and policies. On the national level, a group of participants from all kinds of authorities organized the communication on these initiatives, facilitated the dissemination of good practices, conducted several studies, and proposed several good practices of general use.

The “final measurement” of the sit-

uation on 1 January 2005 was conducted in exactly the same way as the zero measurement.

3 RESULTS

The results can be seen from the percentage of criteria that were fulfilled by the Inspectorates. As there are roughly 50 minimum criteria, each criterion that is not fulfilled reduces the score by 2%. This means that an Inspectorate that scores 90% did not satisfy 5 of the minimum criteria.

3.1 A Great Leap Forward, But...

Given the results of the final measurement, it can be concluded that the enforcement agencies have made a great leap forward in professionalizing their environmental enforcement.

The following table shows the degree to which all enforcement agencies satisfy the minimum criteria in 2005, and the extent to which they satisfied those criteria in 2003. The table shows that in 2003 no single agency or organization fulfilled more than 90% of the minimum criteria. In 2005, 32.9% of the agencies satisfied 100% of the minimum criteria and 40.6% fulfill 90% to 100% of the criteria. This means that in 2005, 73.5% of all enforcement agencies satisfy more than 90% of all minimum criteria. This great majority of the

Table 1: Extent to which the enforcement agencies satisfied the minimum criteria during the zero measurement in 2003 and the final measurement in 2005

% minimum criteria	Absolute numbers and (%) Enforcement agencies Zero measurement 2003 (Out of 542 agencies)	Absolute numbers and (%) Enforcement agencies Final measurement 2005 (Out of 517 agencies)
100	-	170 (32,9%)
90 – 100	-	210 (40,6%)
80 – 90	8 (2%)	56 (10,8%)
60 – 80	122 (22%)	65 (12,6%)
40 – 60	145 (27%)	8 (1,5%)
20 – 40	212 (39%)	6 (1,2%)
< 20	55 (10%)	2 (0,4%)

Table 2: Number of enforcement agencies that satisfy all minimum elements

Enforcement Agencies	Number meeting all minimum elements (Out of 517 agencies)
Local government	141 (30%)
Provincial government	7 (58%)
VenW Inspectorate	1 (100%)
Rijkswaterstaat-diensten (Agencies of the Ministry of Waterways and Public Works)	10 (100%)
VROM-Inspectie (Inspectorate for Housing, Spatial Planning and the Environment)	-
Waterschappen (District Water Boards)	11 (42%)
Total	170 (32.9%)

agencies have turned in a tremendous performance during this time, mainly thanks to the hard work and dedication of the civil servants and managers.

3.2 Final Target Not Achieved

The objective and the administrative commitment at the start of the project were aimed at getting all enforcement agencies in the Netherlands to satisfy all the minimum elements of the quality criteria by 1 January 2005. This would mean that 100% of the agencies would satisfy 100% of the minimum quality criteria.

That target was not achieved. Of the 517 agencies, 170 now satisfy 100% of the minimum elements and 210 satisfy between 90% and 100% of those elements. Together, this is over 73% of all agencies. The other 27% therefore satisfy less than 90% of the quality criteria and have thus professionally organized their enforcement process in an unsatisfactory way. For 16 agencies, in the two years or more that were available to them, they could not satisfy more than a maximum of 60% of the agreed quality criteria. Furthermore, during the verification process, it was noticeable that the attention of the enforcement agencies was mainly directed at the elements and criteria and to a lesser extent on their mutual relationship.

At present, almost 33% of all

enforcement agencies satisfy all the minimum criteria. Compared to the original objective, this result is quite disappointing.

It should be noted here, however, that cases where criteria are “not satisfied” sometimes involve minimal deviations. For example, the VROM Inspectorate does not score 100% but 98% because it does not satisfy the criterion “Supervision strategy”. The VROM Inspectorate does indeed have supervision strategies for all of its varied and different tasks, but it has no comprehensive supervision strategy.

In practice, the main focus is on the 137 (26.5%) agencies that satisfy less than 90% of the minimum criteria.

3.3 Use of the Statutory Instruments

While making the agreements in 2002, a statutory regulation was designed for those cases in which the criteria would not be satisfied after 1 January 2005. The Provincial Governments are playing an important role in this area as directors and prime movers. If considered necessary, the State can also take on its responsibility – for example, by reducing the overall number of Inspectorates. These statutory instruments, which have since been implemented, will now be used to nonetheless bring stragglers to a professional enforcement level. That can have far-reaching consequences for those stragglers.

It basically means the following:

- Agencies which satisfy 100% of the criteria in the final measurement. These will receive the compliments of the Provincial director and will be urged to vigorously continue with the implementation of further professionalization. These agencies will also be highlighted as best practice and in that way will help to achieve a further dissemination of professional enforcement in the Province.
- Agencies which do not satisfy 100% of the criteria in the final measurement but which the Provincial director believes can still satisfy those criteria under their own steam and in the short term (in any case before 1 October 2005). These agencies will receive notification from the Provincial director about which missing elements they will be expected to have within which period of time, including notification that if they do not satisfy the criteria on time the provincial government will issue an instruction ('pre-announcement' instruction).
- Agencies which do not satisfy 100% of the criteria in the final measurement and which the Provincial director believes still cannot satisfy them under their own

steam or in the short term, a strict timetable will apply. In those cases, the Provincial Executive should instigate the instruction procedure on or shortly after 1 October 2005 at the latest. That also applies to those situations for which it is clear on 1 October 2005 that the identified deficiencies have not been resolved.

This further handling of the process will still be coordinated and monitored nationally. In 2007, there will be an evaluation of how the statutory system and the quality criteria are functioning.

4 REFERENCES

- ¹ See Klein, W. "Minimum Criteria For A Professional Environmental Enforcement Process, " INECE 7t Conference Proceedings, Vol 1. Available at <http://www.inece.org/conference/7/vol1/>.
- ² Id.
- ³ Klein, W. "Minimum Criteria for a Professional Environmental Enforcement Process" (in English), 2002, available at <http://www.lim-info.nl/professionalisation>
- ⁴ More material (in Dutch) on the Dutch project is available at <http://www.lim-info.nl/professionalisation>