



Flanders
State of
the Art

Environmental Enforcement Report 2013

Five years of Environmental Enforcement Act
(2009-2013)

Environmental Enforcement Report 2013

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Preface

The Environmental Enforcement Act and the Environmental Enforcement Decree were introduced five years ago. In 2009, this effected huge changes in Flanders' environmental enforcement landscape. Demarcated supervisory duties for a large number of supervisors, an extensive set of instruments with a strong administrative component, the decriminalisation of certain environmental infractions and the introduction of the administrative fine are some aspects of these drastic changes. Meanwhile, both the Act and the Decree have been evaluated (the Flemish High Council of Environmental Enforcement issued an advisory opinion in this context) and adjusted to the needs and concerns in the field. For instance, the administrative transaction and the administrative penalty payment have been introduced.

Each year, the Flemish High Council of Environmental Enforcement evaluated the implemented environmental enforcement policy of the past calendar year and helped shape the development of this policy based on the recommendations of the four Environmental Enforcement Reports that had already been published.

In view of this wooden anniversary of the Environmental Enforcement Act and the Environmental Enforcement Decree it was opted to not only focus the 2013 Environmental Enforcement Report on the activities carried out by the enforcement bodies in 2013, but to make an overall assessment of the past five years and of the way in which the Environmental Enforcement Act was implemented. It may be expected that the environmental enforcement bodies have familiarised themselves with the Environmental Enforcement Act during the past 5 years. The present Environmental Enforcement Report will be a synthesis report which will aim to identify the trends in the implemented environmental enforcement policy. I would very much like to thank the various enforcement bodies in the Flemish Region for their contributions and participation during the past years in the design of the Environmental Enforcement Reports.

Not only the Environmental Enforcement Act celebrates its wooden anniversary in 2014, but the Flemish High Council of Environmental Enforcement itself also celebrates its fifth anniversary. This means that we can look back on the great performance of this network and that the Flemish High Council of Environmental Enforcement will be newly composed for the next five years. Therefore, I wish to seize this opportunity to extend my sincerest thanks to the members, representatives and deputies for their commitment over the past five years. Together we have shaped the environmental enforcement policy, offered support to the enforcement bodies and created room for formal and informal consultation. With the new composition we will have to say goodbye to some people, but at the same time we will meet new people, acquire new insights and be given new opportunities. I want to warmly welcome the new members, representatives and deputies and invite them to further optimise the environmental enforcement policy within the Flemish High Council of Environmental Enforcement during the next five years. The new composition will make 2014 a transitional year. A wooden anniversary indeed offers an ideal opportunity for reflection. The activities that have so far been carried out by the Flemish High Council of Environmental Enforcement will be evaluated and be adjusted, if necessary. In addition, the integrated environmental permit will be an important pillar in this transitional year. Following the transfer of additional competences regarding spatial planning, the Flemish High Council of Environmental Enforcement will be transformed into the Flemish High Enforcement Council for Spatial Planning and Environment. These extended competences will create new opportunities and pose new challenges. An interesting period is starting!

Prof. Dr. Michael G. Faure LL.M.

Chairman of the Flemish High Council of Environmental Enforcement

1. Introduction

1.1 Flemish Parliament Act of 5 April 1995 containing general provisions on environmental policy

The origin of the Flemish High Council of Environmental Enforcement (Vlaamse Hoge Raad voor Milieuhandhaving or VHRM) goes back to the Flemish Parliament Act of 21 December 2007 which supplements the Flemish Parliament Act of 5 April 1995 containing general provisions on environmental policy with a Title XVI 'Monitoring, Enforcement and Safety Measures'¹, in short the Environmental Enforcement Act.

The VHRM was created to support the Flemish Parliament and the Government of Flanders in the coordination of environmental enforcement policy and the interpretation of its content. In view of an efficient enforcement of environmental law, the VHRM sets up systematic consultations with the environmental enforcement actors. These consultations can result in agreements between the different actors. Such agreements are called protocols. The VHRM will set the pace, both in organising consultations with the environmental enforcement actors and in preparing and finalising the protocols. Within this framework, reference can be made to the first environmental enforcement protocol that was signed on 18 March 2013 by Minister Schauvliege and Minister Turtelboom, namely the 'Prioriteitennota vervolgingsbeleid milieurecht in het Vlaamse Gewest 2013'² (Priorities Document on the Prosecution Policy for Environmental Law in the Flemish Region).

The current composition of the VHRM plenary meeting was laid down in the Government of Flanders Decree of 4 April 2014 on the appointment of the members of the Flemish High Council of Environmental Enforcement for the period 2014-2019.³ Moreover, the VHRM works together with a number of working groups to study specific issues. The complete composition of the plenary meeting can be found on the VHRM website⁴.

One of the key tasks of the VHRM is drafting an annual Environmental Enforcement Report. The Environmental Enforcement Report contains at least a general evaluation of the regional environmental enforcement policy pursued over the past calendar year; a specific evaluation of the use of the individual enforcement instruments; an overview of cases in which no sentence was passed within the set term with respect to the appeals against decisions to impose administrative measures; an evaluation of the decision-making practice of public prosecutor's offices when it comes to whether or not to prosecute an identified environmental offence; an overview and comparison of the environmental enforcement policy conducted by municipalities and provinces; an inventory of the insights obtained during enforcement activity which can be used to improve environmental law, policy visions and policy implementation; and recommendations for the further development of environmental enforcement policy. The Environmental Enforcement Reports are made available on the website of the VHRM.⁵

In addition, the VHRM coordinates, on the basis of strategic and operational objectives entered in the policy memorandum of the Minister for Environment, the formulation of a five-yearly environmental enforcement programme which bundles together the enforcement priorities of the enforcement bodies. In this environmental enforcement programme the VHRM formulates coordinating recommendations for the strategic and operational objectives regarding the regional, provincial and municipal environmental enforcement policy.

¹ Publication in the Belgian Official Journal, 19 February 2009.

² <http://www.vhrm.be/documenten/milieuhandhavingsprotocollen/milieuhandhavingsprotocollen>

³ Publication in the Belgian Official Journal, 28 April 2014.

⁴ <http://www.vhrm.be/vhrm/leden-vertegenwoordigers-en-plaatsvervangers>

⁵ <http://www.vhrm.be/milieuhandhavingsrapport>

This programme also mentions the strategic and operational objectives of the Flemish High Council of Environmental Enforcement which will be evaluated annually in the Environmental Enforcement Report. The first five-yearly environmental enforcement programme is scheduled to be drawn up in 2014 for the period 2015-2019.⁶

1.2 Methodology and relevance of the Environmental Enforcement Report 2013

1.2.1 Methodology

The Environmental Enforcement Report intends to provide a concrete picture of the environmental enforcement policy pursued in the Flemish Region on the basis of relevant, reliable figures and qualitative data.

Contrary to the previous Environmental Enforcement Reports, the 2013 Environmental Enforcement Report does not only focus on the environmental enforcement policy pursued in the previous calendar year, but on the environmental enforcement policy that has been implemented since the Environmental Enforcement Act entered into effect. The 2013 Environmental Enforcement Report is a synthesis report which gathers the data from the environmental reports from 2009, 2010, 2011 and 2012 and combines them with the data collected within the framework of the present 2013 Environmental Enforcement Report. The idea is to detect trends in the environmental enforcement policy that was pursued over a period of five years.

By analogy with the formulation of the previous Environmental Enforcement Reports, the VHRM drew up a questionnaire for the environmental enforcement bodies, which each time concentrated on the different competences of these bodies and the implementation of their duties in 2013.

The following bodies were asked about their activities between 1 January 2013 and 31 December 2013:

- the Environmental Inspectorate Division of the Department of Environment, Nature and Energy;
- the Environmental Licences Division of the Department of Environment, Nature and Energy;
- the Environmental Enforcement, Environmental Damage and Crisis Management Division of the Department of Environment, Nature and Energy;
- the Land and Soil Protection, Subsoil and Natural Resources Division of the Department of Environment, Nature and Energy;
- the Secretary-General of the Department of Environment, Nature and Energy;
- the Public Waste Agency of Flanders;
- the Flemish Land Agency;
- the Flemish Environment Agency;
- the Agency for Nature and Forests;
- Waterwegen en Zeekanaal nv;
- the Flemish Agency for Care and Health;
- the Agency for Roads and Traffic;

⁶ Flemish Parliament Act of 22 November 2013 modifying Title XVI of the Flemish Parliament Act of 5 April 1995 containing general provisions regarding environmental policy (Belgian Official Journal of 21 January 2014).

Government of Flanders Decree of 25 April 2014 modifying the Government of Flanders Decree of 12 December 2008 implementing Title XVI of the Flemish Parliament Act of 5 April 1995 containing general provisions regarding environmental policy following the review of Title XVI of the Flemish Parliament Act of 5 April 1995 containing general provisions regarding environmental policy (Belgian Official Journal of 20 June 2014).

- nv De Scheepvaart;
- the Department of Mobility and Public Works;
- the Flemish mayors;
- the Flemish municipalities;
- the Flemish police districts;
- the federal police;
- the inter-municipal associations active in the enforcement of environmental
- the Flemish provincial governors;
- the Flemish provincial supervisors;
- the Environmental Enforcement Court;
- the public prosecutor's offices.

A standard questionnaire was used again in order to obtain comparable data. Questions were asked, among other things, about the number of supervisors within the organisation, the number of full-time equivalents (FTE) dedicated by this supervisor/these supervisors to environmental enforcement duties within the framework of the Environmental Enforcement Act and the number of FTEs dedicated to the administrative support of environmental enforcement duties by non-supervisors, the number of inspections carried out between 1 January 2013 and 31 December 2013, the number of initial official reports and identification reports drawn up, and the number of imposed administrative measures and safety measures. The bodies imposing the sanctions were also asked about their activities between 1 January 2013 and 31 December 2013.

Based on the information obtained via the standardised questionnaires on the 2013 enforcement activities, a quantitative picture can be provided of the activities of the enforcement actors since the entry into effect of the Environmental Enforcement Act. These figures covering a period of five years are displayed graphically in a graph and/or table, together with explanatory text.

1.2.2 Structure

It was clearly laid down by Flemish Parliament Act which matters are to be reported on as a minimum. Therefore, the VHRM has aligned the questionnaire with these requirements, although it has opted to use a different order than in the Environmental Enforcement Act.

Chapter 2 mainly focuses on the efforts of the supervisory bodies. First, an evaluation is made of the environmental enforcement policy that has been pursued since the Environmental Enforcement Act entered into effect in 2009 until 2013 by the regional supervisors, the federal police and the local police, as well as the enforcement activities carried out at the local level by provincial governors, provincial supervisors, municipal supervisors and supervisors of intermunicipal associations. Figures will be given about the number of supervisors per organisation, the number of FTEs dedicated by these supervisors/this supervisor to environmental enforcement duties under the Environmental Enforcement Act and the number of FTEs dedicated to the administrative support of environmental enforcement duties by non-supervisors and the number of inspections carried out by these supervisors between 2009 and 2013. This also allows us to get an idea of the number of inspections carried out per supervisor. With regard to the federal and local police the types of official reports that were drawn up by the police forces in the context of environment are discussed.

In addition, specific attention is devoted to the proactive inspections carried out by the federal police within the framework of waste shipments, and to the activities of local police supervisors. After that, the pursued local environmental enforcement policy is evaluated. When local environmental enforcement policy is discussed, attention is also drawn to the number of Category 1, Category 2 and Category 3 plants on the territory. In addition, the supporting role of the provinces with respect to the municipalities is evaluated on the basis of the

reports of the provinces in the framework of the Cooperation Agreement 2008-2013. Thereafter the supervisory tasks performed by the Flemish cities and municipalities studied.

In Chapter 3 emphasis is on the use of the individual environmental enforcement instruments, the administrative measures and the safety measures by the different environmental enforcement actors. In order to clearly define the term 'environmental enforcement instrument', a list was made of these instruments on the basis of the parliamentary preparations for the Environmental Enforcement Act. This list was used to draw up the standardised questionnaire. It concerns the following instruments: recommendations, exhortations, administrative measures (regularisation order, prohibition order, administrative enforcement, or a combination thereof), safety measures, administrative fines (and deprivation of benefits) and criminal penalties. However, the administrative fines, the administrative transactions and the criminal penalties will be discussed in Chapter 4. Furthermore, the official report and the identification report are included in this specific evaluation of the use of the individual environmental enforcement instruments.

Next, Chapter 4 'Evaluation of the sanctions policy' provides an overview of the administrative and criminal sanctions imposed by the Flemish Land Agency (VLM), the Environmental Enforcement, Environmental Damage and Crisis Management Division (AMMC) of the Department of Environment, Nature and Energy, the public prosecutor's offices and the Environmental Enforcement Court (MHHC).

Other types of fines can be imposed as well, such as municipal administrative sanctions. Since no uniformity exists in these municipal administrative sanctions - despite the fact that certain environmental enforcement bodies also take action within the scope of these regulations - the actors were not asked about these sanctions and these sanctions are not dealt with in this report. In addition, fines can be imposed in the context of the mandatory levies. However, these do not fall within the scope of the Environmental Enforcement Act and will therefore not be further discussed.

In the conclusion of this report (Chapter 5), it is attempted to inventory the insights obtained during enforcement activity which can be used to improve environmental law, policy visions and policy implementation and to formulate recommendations for the future development of environmental enforcement policy. The fact that the 2013 Environmental Enforcement Report is a synthesis report allows for global recommendations and insights to be formulated as to the way in which the Environmental Enforcement Act has been implemented since it entered into effect. It also enables us to pronounce on the implementation of the recommendations formulated by the VHRM in the previous Environmental Enforcement Reports.

1.2.3 Notes

Since the 2013 Environmental Enforcement Report is a synthesis report on five years of Environmental Enforcement Act, no specific details can be given of the 2013 enforcement activities. The figures presented in the present report bundle together the data from 2009 through 2013. The idea is to describe general evolutions in the implementation of the Environmental Enforcement Act and to present its instruments rather than detailed information.

Because the data on the 2009 enforcement activities only pertain to the period from 1 May 2009 through 31 December 2009⁷, they will be converted to a period of 12 months instead of 8 months⁸, whenever possible.

⁷ 25 June 2009 for the enforcement activities regarding nature protection law.

⁸ Assuming that each month an equal number of inspections are carried out by the supervisory bodies.

Moreover, the questionnaire has been slightly changed since the 2010 Environmental Enforcement Report. As a result, certain data are not available for 2009.

At the same time, it should be pointed out that the response rate was still not 100% for the present Environmental Enforcement Report, although the different relevant actors received an official written request and all the actors that come under the Flemish Region are obliged to participate.

1.3 Environmental enforcement policy

It goes without saying that the activities carried out by environmental enforcement actors in Flanders in 2013 were not random. The environmental enforcement policy in the Flemish Region is determined, among other things, by the Coalition Agreement of 15 July 2009⁹, the Policy Memorandum on Environment and Nature 2009-2014¹⁰ and the Policy Paper on Environment and Nature 2013-2014¹¹ of Minister Schauvliege.

Among other things, the Coalition Agreement 2009-2014 'A vigorous Flanders in decisive times - for an innovative, sustainable and warm society' defines the general outline for environmental enforcement in Flanders and determines that the Environmental Enforcement Reports of the Flemish High Council of Environmental Enforcement shall evaluate the Environmental Enforcement Act and its practical implementation in a goal-oriented manner. The main lines and priorities of the policy are determined in annual environmental enforcement programmes. When considered desirable, organisational cooperation agreements will be embedded in enforcement protocols established under the auspices of the Flemish High Council of Environmental Enforcement. Furthermore, the Government of Flanders states that adequate training, permanent education and solutions to other needs of supervisors and criminal investigators will be provided.

In other words, this Coalition Agreement assigns a specific role to the Environmental Enforcement Reports of the Flemish High Council of Environmental Enforcement. In addition to the subjects laid down in the Flemish Parliament Act, the reports must also make an evaluation of the practical implementation of the Environmental Enforcement Act.

The Policy Memorandum 2009-2014 on Environment and Nature of the Flemish Minister for Environment, Nature and Culture, Joke Schauvliege, lays down, among other things, the development of an effective administrative enforcement of environmental infringements and environmental offences as a strategic objective. The new legal framework – the Environmental Enforcement Act – should make it possible to react quickly and make a clear statement when imposing exclusive (in the case of environmental infringements) and alternative (in the case of environmental offences) administrative fines, both to offenders and to supervisors and reporting authorities. The development of a clear and coherent framework containing criteria on the basis of which the amount of the fine and/or the deprivation of benefits can be calculated, with a view to legal certainty, is considered equally important.

The implementation of the Environmental Enforcement Act is also included in the policy memorandum as an operational objective. The main lines and priorities of environmental enforcement policy will be determined, with account being taken of the recommendations in the annual environmental enforcement programmes that are drawn up by the Flemish High Council of Environmental Enforcement. The practice of enforcement will be evaluated for its effectiveness and efficiency, among other things via the annual Environmental Enforcement Reports. Cooperation agreements between the different environmental enforcement actors will, when

⁹ The entire 'Coalition Agreement of 15 July 2009' can be consulted at the following URL:

http://www.vlaanderen.be/servlet/Satellite?c=Solution_C&cid=1247734278469&pagename=Infolijn/View

¹⁰ The entire 'Policy Memorandum on Environment and Nature 2009-2014' can be consulted at the following URL:

http://www.vlaanderen.be/servlet/Satellite?pagename=Infolijn%2FView&c=Solution_C&p=1186804409590&cid=1171947608450

¹¹ <http://docs.vlaamsparlament.be/docs/stukken/2013-2014/g2242-1.pdf>

considered useful, be anchored in enforcement protocols. In the framework of the Flemish Parliament Act the Minister will grant support to supervisors and criminal investigators.

The idea is also that, as a result of the increase in the number of local (municipal, or, where they have been appointed, intermunicipal and police district) supervisors, the Flemish Environmental Inspectorate will be able to concentrate more on plants with greater environmental relevance (such as Seveso and IPPC companies) and on waste chain enforcement. The enforcement should change from a reactive to a proactive approach through specific thematic enforcement campaigns, on the one hand, and to a routine approach, on the other. In the latter, inspections focused on emissions and self-monitoring inspections of companies are of central importance. Attention should also be paid to the supervision of unlicensed facilities and activities which nevertheless require a licence.

In implementation of the Coalition Agreement of 15 July 2009 the Government of Flanders opts for a partnership with strong local administrations, also in the area of environmental and nature policy. Strategic objectives therefore include that the Government of Flanders fights compartmentalisation, creates more internal cooperation and synergies and supports local administrations in their pursuit of a local environmental policy. In this framework, the adjustment of the Cooperation Agreement 2008-2013 with the local authorities is an operational objective.

In the Policy Paper on Environment and Nature 2013-2014 the Flemish Minister for Environment, Nature and Culture, Joke Schauvliege, refers specifically to environmental enforcement in Action key project 51-2 'Fully implementing the Environmental Enforcement Act with attention to the evaluation tracks and the impact thereof'. Reference is made to the fact that during the past period the focus was mainly on the overall evaluation of environmental enforcement regulation. The concept paper which was adopted by the Government of Flanders in 2012 and contained proposals for adjustments and the policy recommendations within the framework of the evaluation of the Environmental Enforcement Act were transposed in actual amendments to the Flemish Parliament Act and Decree in 2013. For instance, the administrative transaction system was introduced. In addition, local environmental enforcement will be further optimised on the basis of the concrete recommendations that were formulated by the VHRM in 2013.

The Policy Paper also focuses on the further optimisation of the application and continued effect of the Environmental Enforcement Act and the efforts that are made by VHRM in this context (among other things with regard to the optimisation of local supervision, the development of a strategic multi-year programme, the cooperation and information exchange between enforcement bodies and the enforceability of regulations). Emphasis was already on coordinating the activities of the enforcement actors, clarifying the legislation and exchanging good practices and knowledge, which will also be the case for 2014. Attention was also drawn to the environmental enforcement protocol 'Priority note prosecution policy environmental law in the Flemish Region' which was designed within the VHRM. Cooperation agreements between the different enforcement actors are anchored in this protocol which will be further developed and be continued in 2014. The Priority note serves as a guideline for coordinating the priorities between the supervision and prosecution policies of the actors involved. The Policy Paper also focuses on the importance of good cooperation between the competent Environment and Spatial Planning administrations in view of an efficient enforcement of the integrated environmental permit. The idea is to lay down the necessary agreements, possibly in protocols. The draft Flemish Parliament Act on the enforcement of the integrated environmental permit will concentrate on a smooth and transparent information exchange between the actors concerned, the extension of the identification authority of both inspection services and an optimal harmonisation of the enforcement instruments of both policy areas. In her policy paper Minister Schauvliege also mentions the fifth Environmental Enforcement Report which will provide an overview and evaluation of five years of implementation of the Environmental Enforcement Act.

It should be clear that the Flemish High Council of Environmental Enforcement can and should play a role in the support of the Government of Flanders and the Flemish Minister for Environment, Nature and Culture in the implementation of the Coalition Agreement, the Policy Plan and the Policy Paper. As described earlier, the VHRM also fulfils a crucial role in the design of the policy-based framework, namely by formulating advisory opinions (upon request or on its own initiative) and by annually drawing up the Environmental Enforcement Report. The Environmental Enforcement Reports 2009, 2010, 2011 and 2012 contain, among other things, policy recommendations at the strategic level, but also operational recommendations for the environmental enforcement actors themselves.

2. Evaluation of the regional environmental enforcement policy

Regarding to the fact that the present Environmental Enforcement Report is a synthesis report of five years of implementation of the Environmental Enforcement Act, this chapter aims to evaluate the environmental enforcement policy in Flanders from 1 May 2009 through 31 December 2013. It reports on the enforcement and supervision activities of the different actors who were active in the Flemish Region during this period. To be able to draw up this overview, use is made of the data from the Environmental Enforcement Reports 2009¹², 2010, 2011 and 2012, and of the data from the survey of the enforcement actors regarding their enforcement activities in 2013. The notes that were formulated to the figures in the different reports also apply to the data used for the present Environmental Enforcement Report.

2.1 Evaluation of the regional environmental enforcement policy

2.1.1 Regional supervisors

The Environmental Enforcement Act determines in Article 16.3.1 that the personnel of the department and the agencies coming under the policy areas of Environment, Nature and Energy, Welfare, Public Health and Family, and Mobility and Public Works can be appointed as supervisors by the Government of Flanders. It concerns the following enforcement actors: the Secretary General of the Department of Environment, Nature and Energy (LNE); the Environmental Inspectorate Division of the LNE Department; the Environmental Licences Division of the LNE Department; the Land, Soil Protection, Subsoil and Natural Resources Division of the LNE Department; the Flemish Land Agency; the Flemish Environment Agency; the Agency for Care and Health; the Agency for Nature and Forests; the Public Waste Agency of Flanders, and Waterwegen en Zeekanaal nv. Since 2010, following the introduction of the amendment decree of the Government of Flanders of 19 November 2010, the Agency for Roads and Traffic, the Maritime Access Division of the Department of Mobility and Public Works and nv De Scheepvaart can appoint supervisors as well. Article 16.3.2 of the Environmental Enforcement Act also stipulates that only persons who have the necessary qualifications and characteristics to adequately perform the supervisory duties can be appointed supervisors.

In 2013, just like in previous years, the Secretary-General of the Department of Environment, Nature and Energy did not carry out any supervision, since no exceptional circumstances occurred during the survey period which required his authority. Therefore, the Secretary-General will not be included in the tables and graphs below.

The table below shows the number of supervisors that could be used by the regional enforcement bodies since the entry into effect of the Environmental Enforcement Act.

¹² The data from the 2009 Environmental Enforcement Report cover the period from 1 May 2009 through 31 December 2009. To make comparisons over the past five years, the data from the 2009 Environmental Enforcement Report are converted to a period of 12 months instead of 8 months.

Regional enforcement actor	Number of supervisors				
	2009	2010	2011	2012	2013
Environmental Inspectorate Division of the LNE Department	102	100	99	96	101
Environmental Licences Division of the LNE Department	84	80	74	70	80
Land and Soil Protection, Subsoil and Natural Resources Division of the LNE Department	8	8	16	15	15
Flemish Land Agency	42	41	43	42	45
Flemish Environment Agency-Water Reporting Division	4	4	/	14	17
Agency for Care and Health	27	24	22	20	20
Agency for Nature and Forests	166	175	174	176	166
Public Waste Agency of Flanders	96	96	106	106	112
Waterwegen en Zeekanaal NV	102	102	102	87	65
Agency for Roads and Traffic	/	/	/	/	62
Department of Mobility and Public Works	/	0	/	/	9
NV De Scheepvaart	/	0	0	30	30
Total	631	630	636	656	722

Table 1 Number of supervisors per regional enforcement actor

For 2013, the VHRM received for the first time a response from the different regional enforcement actors with regard to the number of supervisors they appointed. This immediately reveals itself in an increase in the total number of regional supervisors.

Whereas in 2009, 631 regional supervisors were active in the Flemish Region, their number gradually increased over the past five years to 722 in 2013. This is an increase of more than 14%.

However, the strong rise in the number of supervisors over the past five years cannot be observed for each separate enforcement actor. This is mainly owing to the availability of the figures in 2013 within the Agency for Roads and Traffic, the response from the Department of Mobility and Public Works and the strong percentage increase in the number of supervisors within the Flemish Environment Agency (325%), the Land, Soil Protection, Subsoil and Natural Resources Division (87.5%) and the Public Waste Agency of Flanders (16%). As is apparent from the above table, other regional supervisory bodies even reported a decrease in the number of supervisors since the entry into effect of the Environmental Enforcement Act.

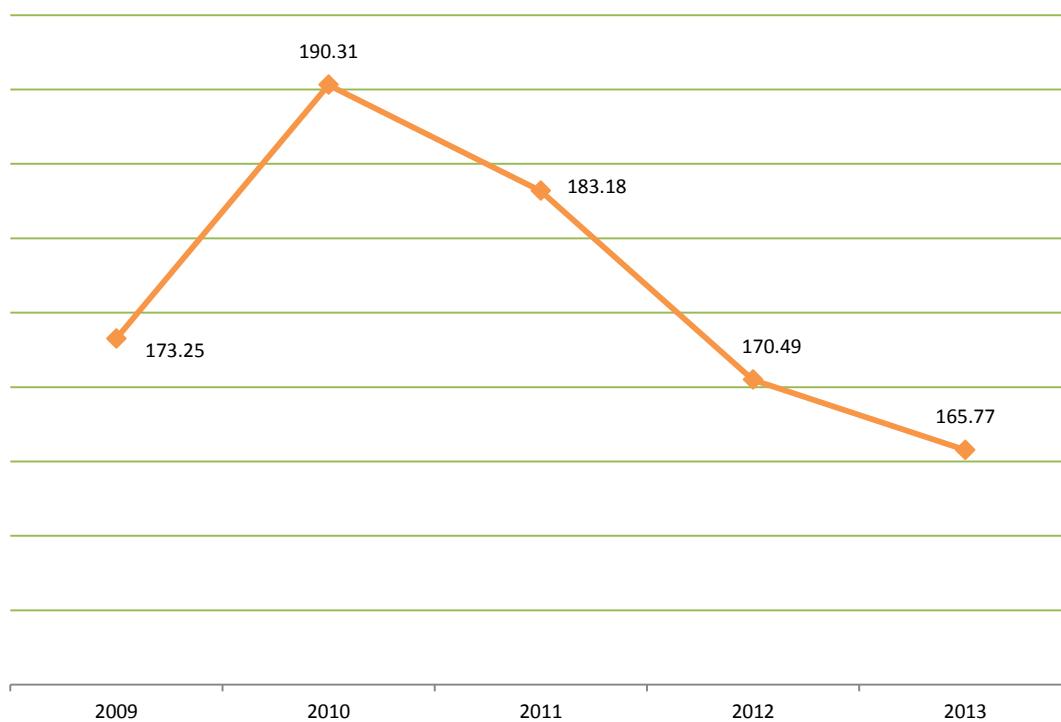
A striking element in the above summary table is the great difference in the number of supervisors appointed by the different enforcement actors. A large number of supervisors may indicate that a large number of supervisory duties is involved, like for instance within the Environmental Inspectorate Division¹³ and the Agency for Nature and Forests. However, this ratio does not constitute any causal link. For instance, the Agency for Roads and Traffic has competences with regard to the dumping and discharge of waste and materials. The implementation of these supervisory duties require 'many eyes in the field'. Within certain enforcement bodies, the aspect 'enforcement' is only part of the supervisor's whole set of duties, whereas within other enforcement bodies supervisors are engaged almost full-time in performing enforcement duties. As a result, the number of appointed supervisors does not provide a complete picture of the enforcement duties that are actually carried out. For this reason, the next section will focus on the number of full-time equivalents (FTEs) that were dedicated to enforcement duties over the past five years.

¹³ The Environmental Inspectorate Division communicated that their 2010 reporting on the number of supervisors was inaccurate. In 2010, 106 supervisors were active instead of 100.

2.1.2 Efforts related to environmental enforcement duties¹⁴

By not specifying in the Environmental Enforcement Act whether regional supervisors are to be engaged full-time in environmental law enforcement nor specifically defining the required qualifications and characteristics of these supervisors, the legislator has allowed the different bodies to decide for themselves how they want to implement their supervisory duties. Nevertheless, the dedicated FTEs may give a clearer and more balanced picture of the actual efforts made in the field of environmental enforcement than the number of supervisors¹⁵.

The next graph displays the total number of FTEs that were dedicated to enforcement duties by regional supervisory bodies over the past five years.



Graph 1 Total number of FTEs dedicated to enforcement duties by regional enforcement actors

Despite the increased number of supervisors, it can be deduced from the graph above that the total number of FTEs dedicated to enforcement duties has decreased since the entry into effect of the Environmental Enforcement Act. In 2010, the total number of FTEs dedicated to enforcement duties by regional enforcement bodies was maximum 190.31. This fell sharply to 165.77 FTEs in 2013, which is even lower than the total number of FTEs that were dedicated to enforcement duties in 2009. Since 2009, a 4% decrease has been reported in the total number of FTEs dedicated to enforcement duties by regional enforcement bodies.

On the basis of the total number of FTEs and the total number of supervisors, the average number of FTEs per regional supervisor can be calculated as well. This was 0.27 FTEs in 2009, 0.29 FTEs in 2010, 0.28 FTEs in 2011, 0.25 FTEs in 2012 and 0.23 FTEs in 2013. Except for the year 2010, a decrease can be observed in the average

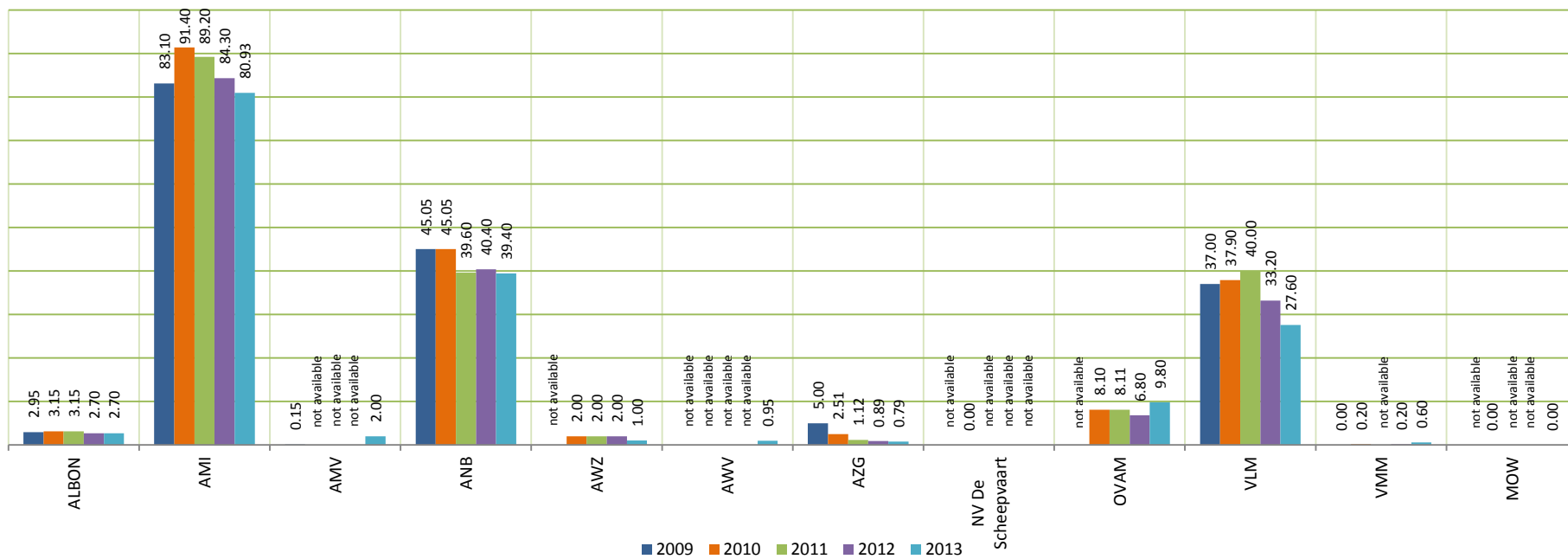
¹⁴ For more information and explanation about enforcement activities of specific enforcement actors, reference can be made to the enforcement report of the specific actor itself, provided the enforcement actor has drawn up such a report.

¹⁵ Necessary caution is to be exercised when comparing the number of supervisors against the dedicated FTEs to assess the efforts made, since the number of supervisors for a specific year is merely a snapshot at the end of the considered year. The dedicated FTEs, on the other hand, pertain to the considered year as a whole.

number of FTEs per regional supervisor, which means that a limited decrease can be reported in the amount of time dedicated to enforcement duties by the appointed supervisors. This decrease amounts to 18%.¹⁶

However, the total number of FTEs dedicated to enforcement duties differs strongly by regional enforcement body. This is clearly illustrated in the graph below.

¹⁶ This finding can possibly be explained by the increase in regional supervisors which is partially owing to the supervisors that were appointed by the Minister in charge of public works in keeping with the 'many eyes in the field' principle. These are civil servants who have mainly been assigned other duties, but have also been given a supervisory duty in view of the extension of the possibilities for exercising supervision in the field. However, supervision is not one of the core duties of these supervisors. Because of their appointment these supervisors can identify, report and handle infractions like waste dumping during the implementation of their main duties.

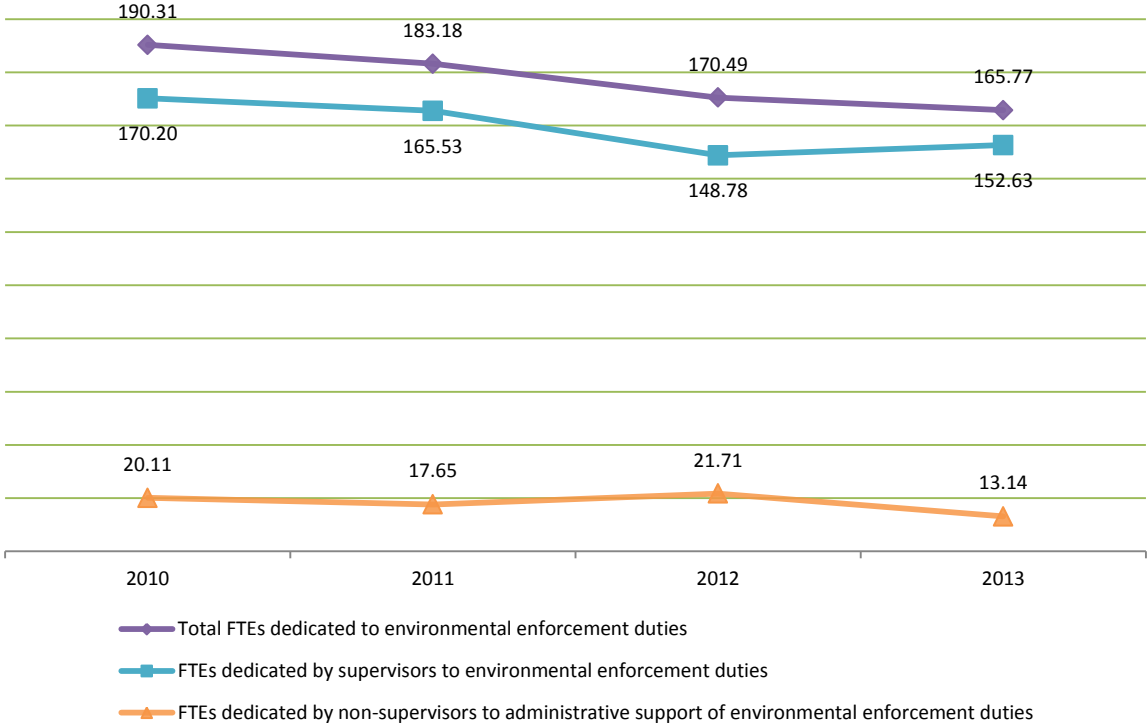


Graph 2 Number of FTEs dedicated to enforcement duties per regional enforcement actor

This graph clarifies the difference between the regional enforcement bodies. Over the past five years, the Environmental Inspectorate Division, the Agency for Nature and Forests and the Flemish Land Agency¹⁷ dedicated a lot of FTEs to enforcement duties, which can be related to their specific enforcement duties. On the other hand, a decrease in the total number of FTEs can be reported for these actors since 2009, despite the fact that the number of appointed supervisors has remained more or less stable since the Environmental Enforcement Act entered into effect. Again, it could be deduced from this that the appointed supervisors can dedicate less time to enforcement duties.¹⁸

For a number of actors it was impossible (over the past years) to report on the FTEs dedicated to enforcement duties. This is owing to the fact that the environmental enforcement duties are part of the general duties of the appointed supervisors and that no specific time registration was done for these environmental enforcement duties.

Since the survey in the 2010 calendar year the enforcement actors were asked to break down the total number of FTEs dedicated to enforcement duties into the FTEs dedicated by supervisors and the FTEs dedicated to the administrative support of environmental enforcement duties by non-supervisors. This ratio is presented in the graph below.



Graph 3 Number of FTEs dedicated to environmental enforcement duties and number of FTEs dedicated to administrative support

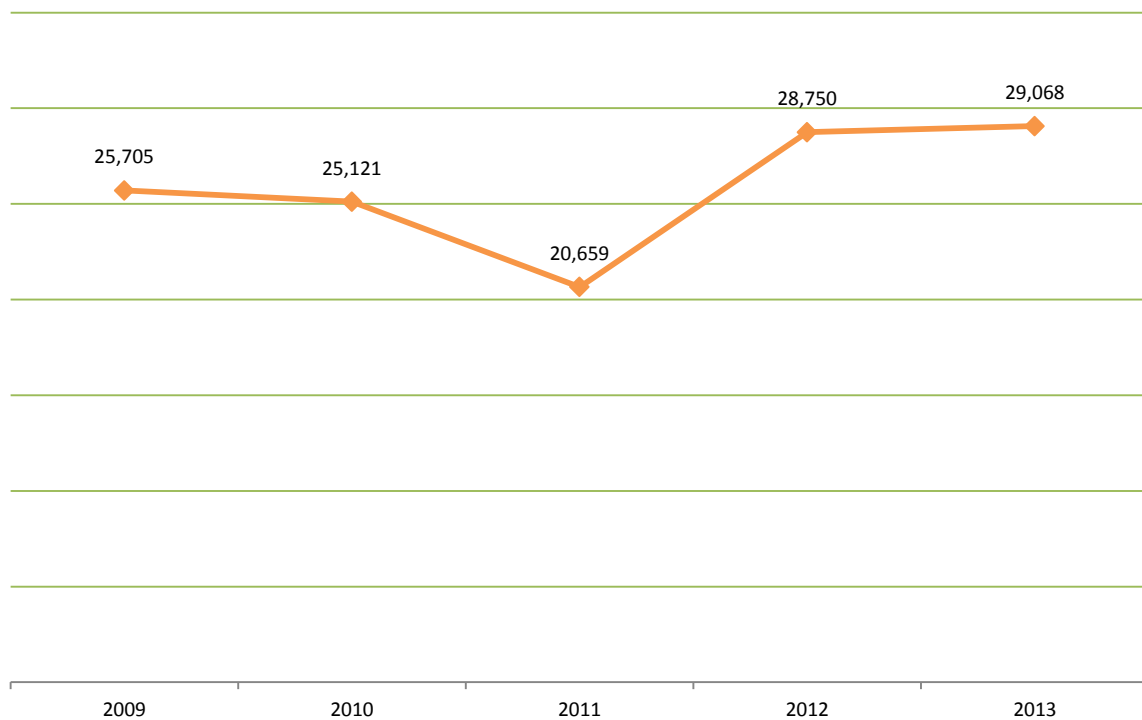
As appears from the above table, the total number of FTEs dedicated to enforcement duties mainly consists of FTEs dedicated by supervisors. Since the entry into effect of the Environmental Enforcement Act, the FTEs

¹⁷ With regard to the number of FTEs dedicated in 2013 it can be communicated that for the Flemish Land Agency 27.6 FTEs were dedicated by supervisors to environmental enforcement duties in the regions; 4.24 FTEs were dedicated by supervisors in Brussels who mainly perform supporting duties and hardly carry out on-site inspections, and 2.9 FTEs were dedicated by supervisors in the regions who mainly perform administrative duties.

¹⁸ However, this conclusion needs to be treated with caution, since the increase in supervisors is not equally distributed between the different supervisory bodies and given the supervisors who were appointed in keeping with the 'many eyes in the field' principle. In other words, it is not an assessment of the individual regional supervisory bodies.

dedicated to the administrative support of environmental enforcement duties by non-supervisors have amounted on average to only 10% of the total number of FTEs dedicated to enforcement duties. It can also be deduced that since 2009 both the number of FTEs dedicated by supervisors and the number of FTEs dedicated to administrative support have decreased, which results in a fall in the total number of FTEs dedicated to enforcement duties.

In order to be better able to interpret the efforts of the regional supervisory bodies in the field of environmental enforcement in their context, it was asked how many environmental enforcement inspections were carried out by these supervisors. The definition of 'inspection' is as follows: "An inspection in the context of environmental enforcement is to examine with a legal and/or a natural person who is bound by environmental law obligations, whether or not this legal and/or natural person actually complies with these legal obligations. This can be broken down into on-site inspections or inspections of documents".¹⁹ The graph below gives an overview of the total number of environmental enforcement inspections carried out by the supervisors each year since the Environmental Enforcement Act entered into effect.

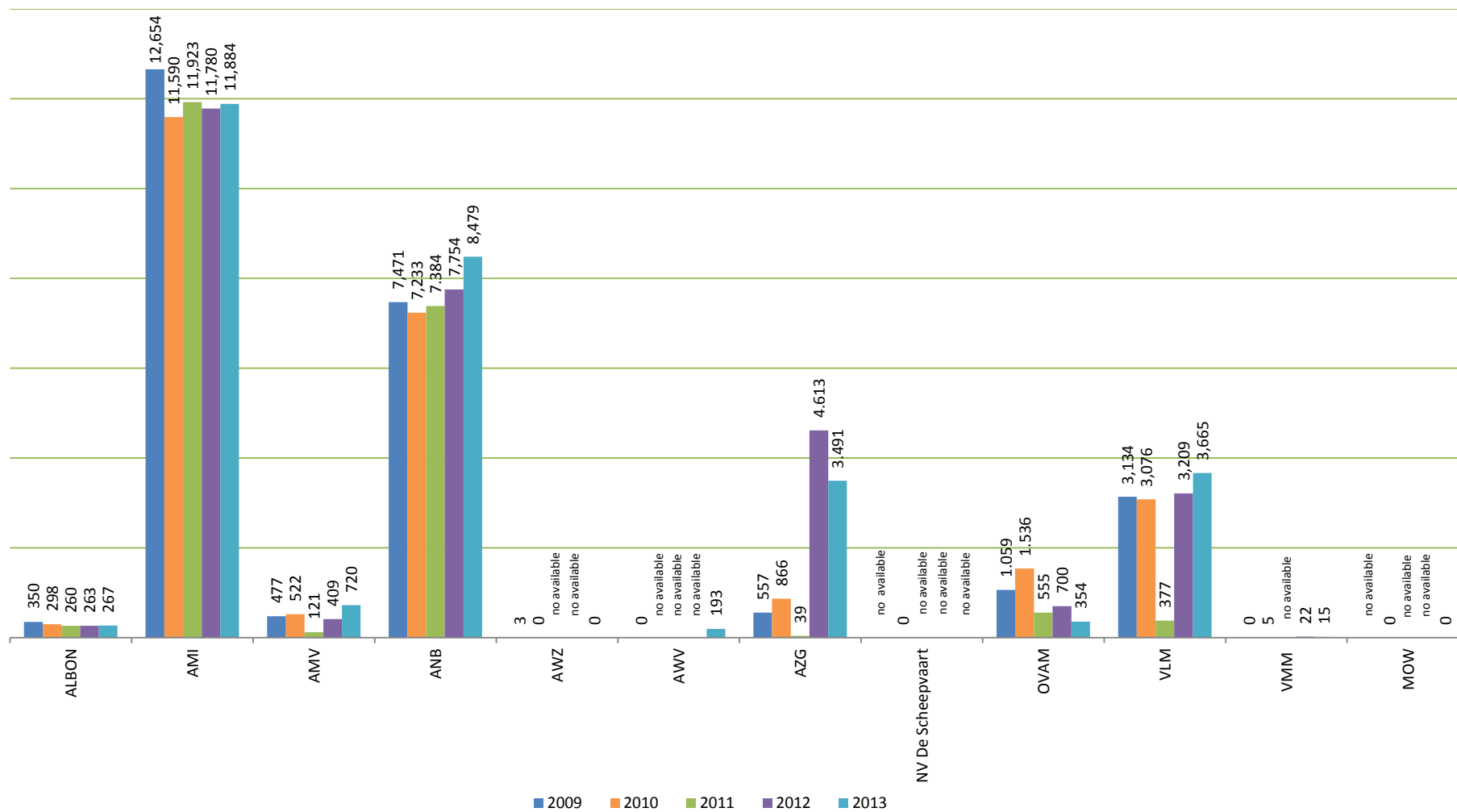


Graph 4 Total number of environmental enforcement inspections carried out

It can be established that the number of environmental enforcement inspections carried out in the considered period (2009-2013) has increased by 13% despite a decrease in 2010 and 2011.

The following graph makes a distinction between the different enforcement bodies and the environmental enforcement inspections they carried out over the past five years.

¹⁹ VHRM-glossary: <http://www.vhrm.be/voor-de-toezichthouder/glossarium>

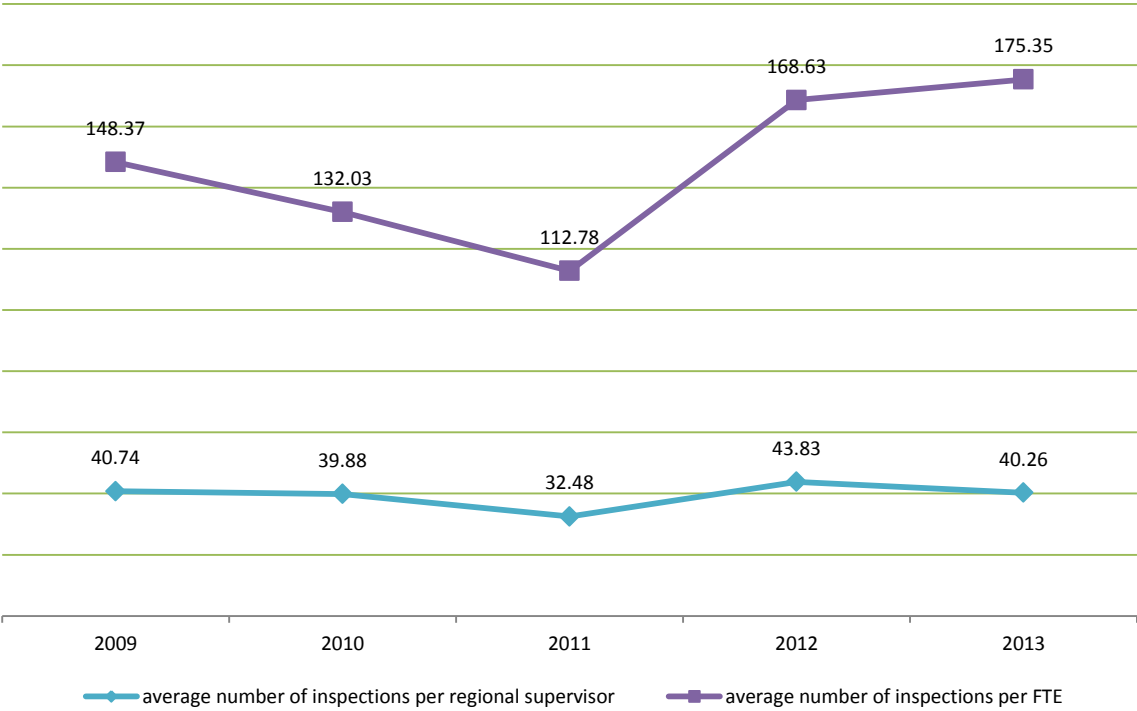


Graph 5 Number of environmental enforcement inspections per regional enforcement actor

Just like with the total number of FTEs dedicated to enforcement duties, the above graph clarifies the difference between the regional enforcement bodies. Most environmental enforcement inspections are carried out by the Environmental Inspectorate Division, the Agency for Nature and Forests, the Flemish Agency for Care and Health and the Flemish Land Agency. These are the enforcement bodies, with the exception of the Flemish Agency for Care and Health, that dedicate the largest number of FTEs to environmental enforcement duties. Only for the Flemish Land Agency, the Agency for Nature and Forests and the Flemish Agency for Care and Health can a growing number of inspections be reported since 2009, viz. a percentage increase of 17%, 17% and 527% respectively, despite a decrease in the number of FTEs dedicated to enforcement duties. For the Environmental Inspectorate Division a 6% decrease can be recorded in the number of environmental enforcement inspections carried out since 2009. Certain actors indicated having carried out no or only few environmental enforcement inspections over the past five years, despite the fact that they have appointed supervisors. In addition, certain actors could not report on the number of environmental enforcement inspections they carried out, since these inspections belong to the supervisor's daily duties.

The number of inspections has generally increased since 2009, the number of appointed supervisors has grown as well, but the number of FTEs dedicated to enforcement duties has fallen. Therefore, it can be assumed that more inspections were carried out in less time. On the one hand, this could imply that the supervisors have built up expertise, which has allowed them to familiarise themselves even more with the Environmental Enforcement Act and to perform their duties more efficiently. On the other hand, it can point to the fact that the number of fast/short/efficient inspections has grown.

The graph below provides an overview of the average number of inspections per supervisor and the average number of inspections per FTE over the past five years.



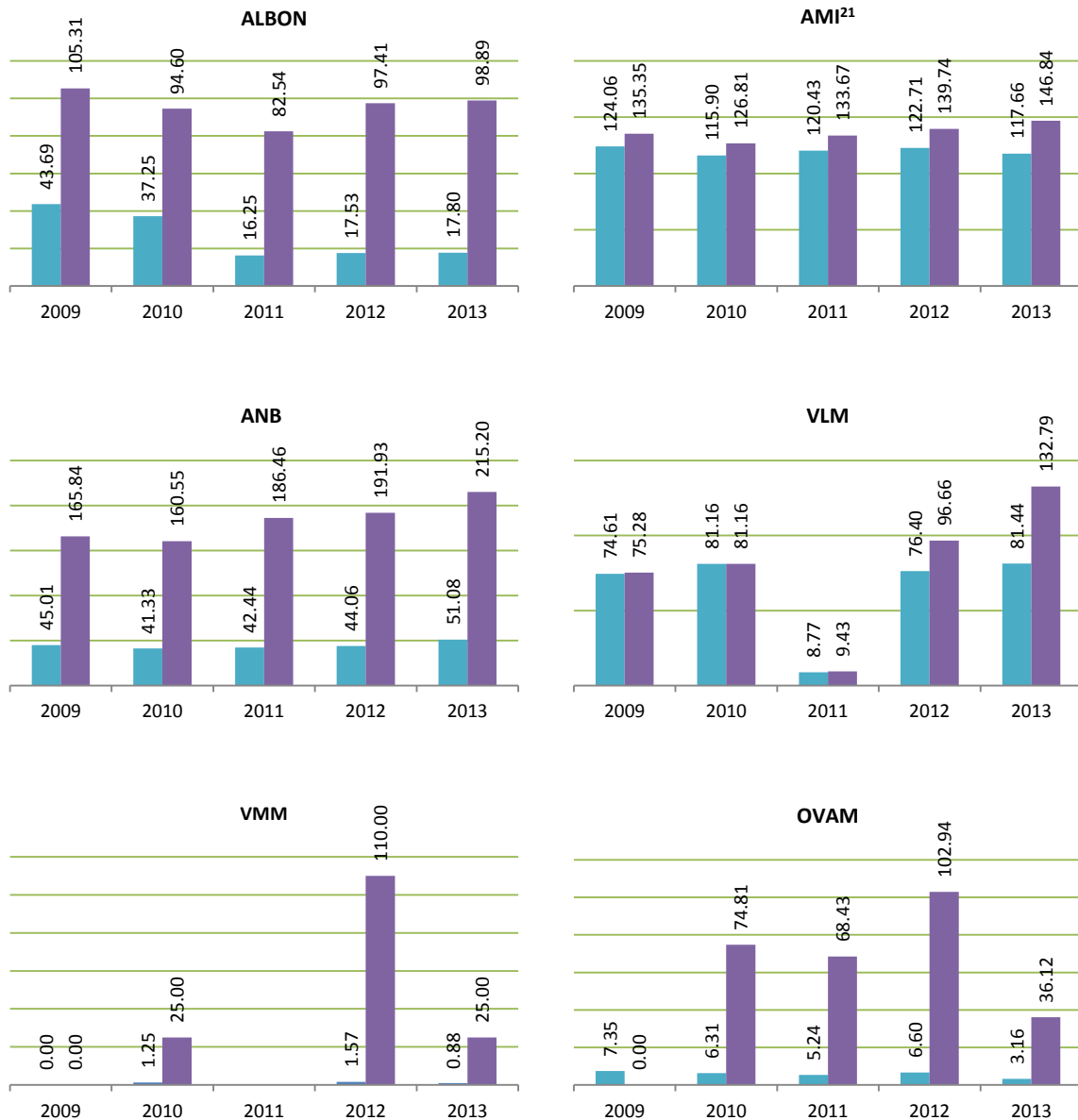
Graph 6 Average number of inspections per supervisor and average number of inspections per FTE

Because many regional supervisors are rarely engaged full-time in environmental enforcement duties, the average number of inspections per supervisor is always lower than the average number of inspections per FTE.

Generally, it can be established that the average number of inspections per supervisor remained relatively stable during the studied period. Only for 2011 a slight decrease can be reported.

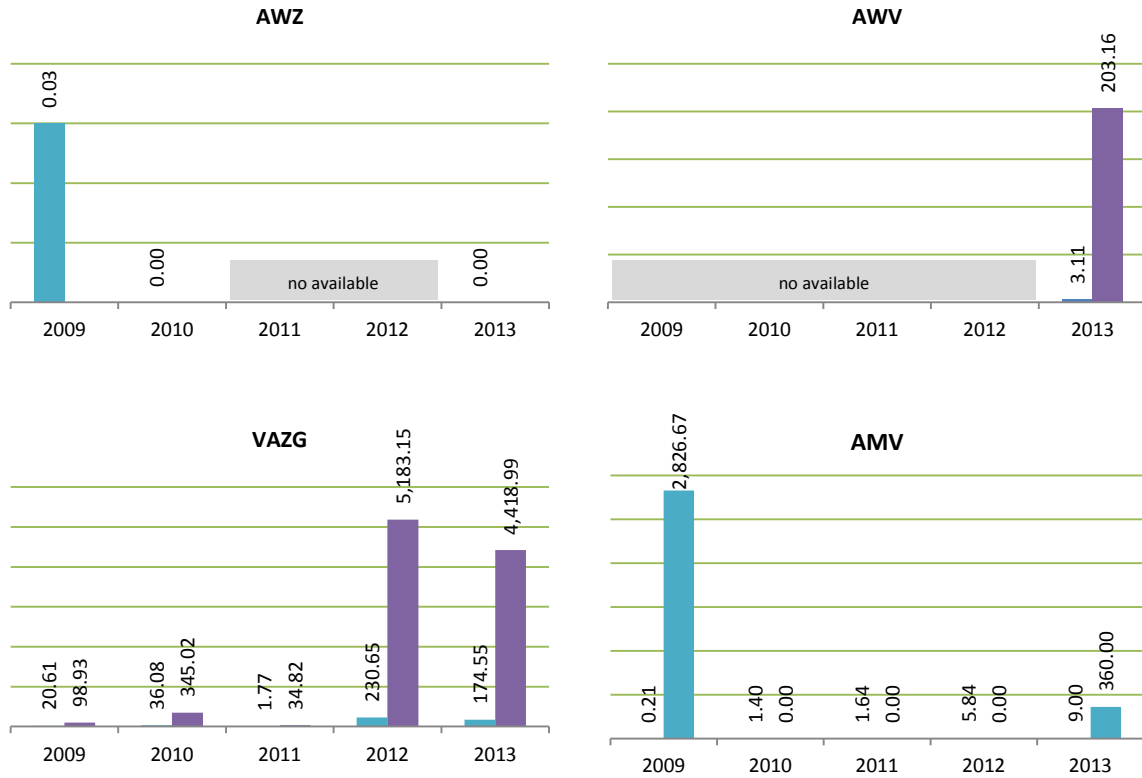
Since 2009, the average number of inspections per FTE has been growing, from 148.37 at the time to 175.35 in 2013. This is an 18% increase. However, this increase only started in 2012, as in 2010 and 2011 a decrease could still be recorded in the average number of inspections per FTE.

The graphs below reflect the evolution in the average number of inspections per supervisor and the average number of inspections per FTE by regional enforcement body²⁰.



²⁰ Nv De Scheepvaart and the Department of Mobility and Public Works are not represented in these graphs, given the fact that they could not report on the FTEs dedicated to enforcement duties and/or no environmental enforcement inspections were carried out and/or no FTEs were dedicated to environmental enforcement duties.

²¹ The bigger difference between the average number of inspections per supervisor and the average number of inspections per FTE can be explained by the recruitment of a number of supervisors at the end of 2013. These supervisors carried out very few inspections.



Graph 7 Average number of inspections per supervisor and average number of inspections per FTE, per regional supervisor

It can be deduced from the graphs above that the general increase in the average number of inspections per supervisor can be observed for most enforcement actors. The increase in the average number of inspections per FTE can also be recorded for the different enforcement actors, to a larger or lesser extent²².

²² Naturally, this also has to do with the nature of the inspections and with the fact of whether or not they are time-consuming.

2.2 Evaluation of the environmental enforcement policy pursued by the police

To draw up the present Environmental Enforcement Report the Flemish High Council of Environmental Enforcement surveyed the federal and local police about their environmental enforcement activities. It was asked, among other things, how many official reports were drawn up by the federal and local police for environmental offences in the Flemish Region following reports, complaints or offenders being caught in the act since 2010. More detailed information was also asked about the specific activities of the federal police in the context of environmental enforcement and about the activities of the supervisors appointed within the local police districts.

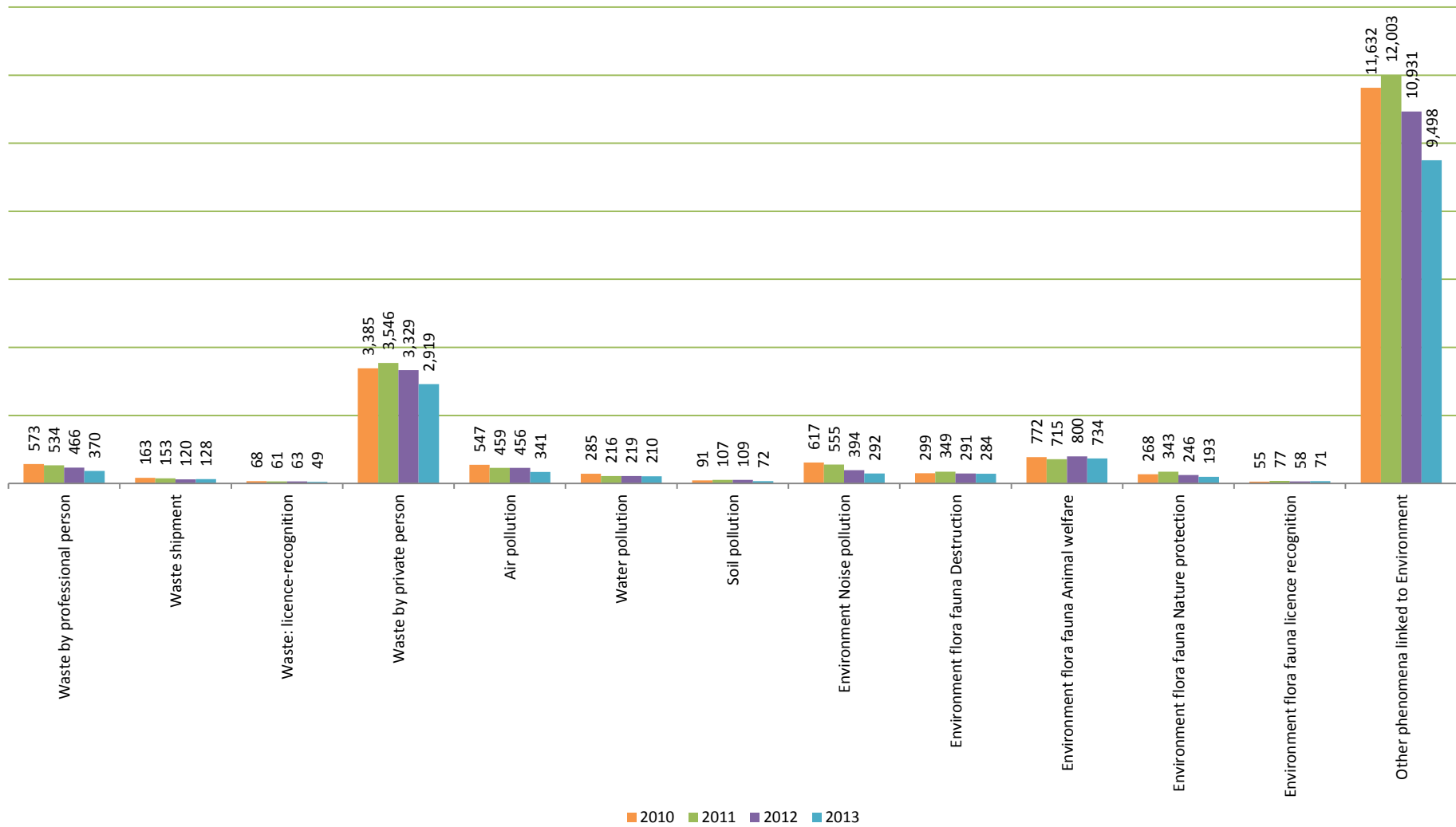
2.2.1 In general

The graph below lists the types of official reports that were drawn up with regard to the environment by police forces from 2010 through 2013²³. The figures include both the initial official reports and the simplified official reports.²⁴ The fact that the simplified official reports are included as well explains the difference between the number of official reports drawn up by the police forces and the number of dossiers – drawn up by the police forces - received by the public prosecutor's offices (cf Chapter 4.1). The figures originate from the General National Database. The General National Database (Algemene Nationale Gegevensbank or ANG) is the whole of information systems of the integrated police force, the purpose of which is to support the duties of the judicial or administrative police, so as to guarantee a maximally structured and secured information management.²⁵

²³ No data are available for 2009, since these data were not collected for the 2009 Environmental Enforcement Report.
Date of extraction of 2013 data: January 2014.

²⁴ Simplified official reports are mainly drawn up for non-serious infractions, for instance with unknown offenders, which are not systematically referred to the public prosecutor's office.

²⁵ <http://www.lokalepolitie.be/5412/algemene-informatie/199-de-algemene-nationale-gegevensbank.html>

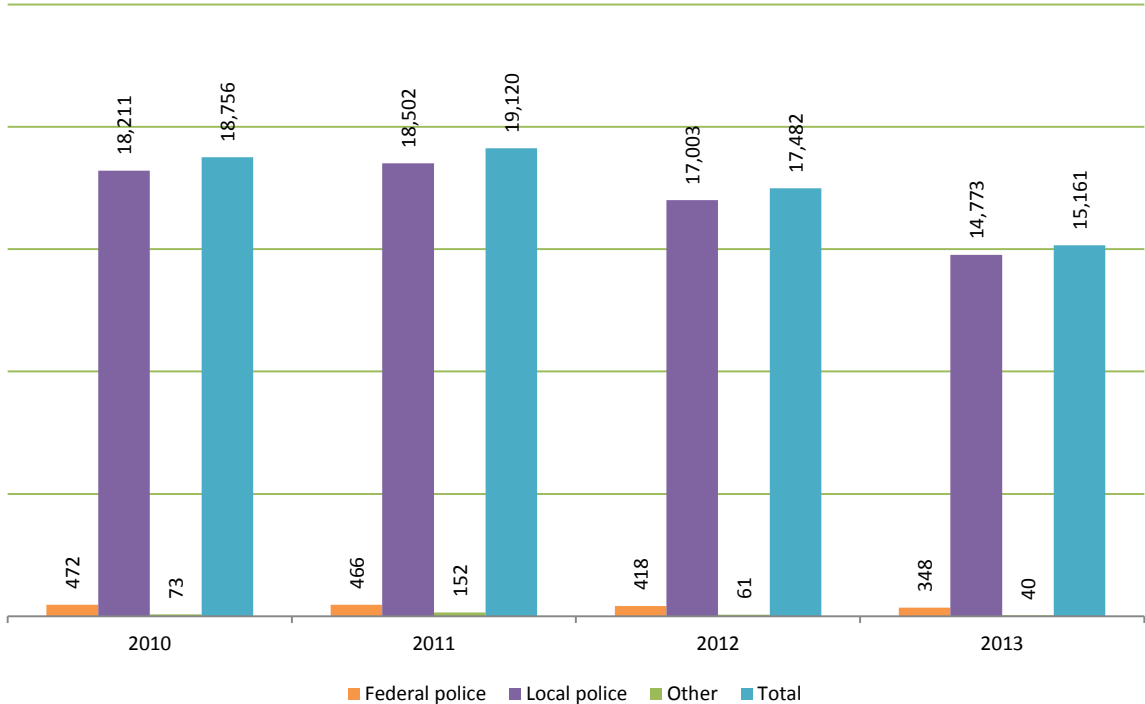


Graph 8 Official reports regarding environment drawn up by police forces

In total, 18,756 official reports were drawn up by the police forces in 2010, 19,120 in 2011, 17,482 in 2012 and 15,161 in 2013. Generally, a strong decrease can be observed in the number of official reports drawn up by police forces in the period 2010-2013. This decrease amounts to 19%. This can possibly be explained by the increase in municipal administrative sanctions that can be imposed for such infractions. In other categories as well, which are potentially linked to municipal administrative sanctions, such as noise nuisance, a strong decrease can be recorded in the number of official reports.

Over these four years most official reports referred to "other phenomena linked to the environment". This category encompasses, among other things, noise nuisance, as well as infringements that do not fall within the scope of the Environmental Enforcement Act (such as spatial planning, fireworks fraud,...). The category "waste by private individual" is the second largest theme for which official reports were drawn up in the period 2010-2013. Both in the category "other phenomena linked to the environment" and the category "waste by private individual" a decrease can be observed in the number of official reports that were drawn up. This decrease amounts to 18% and 13% respectively.

The graph below lists the different police forces and the number of official reports they drew up in the period 2010-2013.



Graph 9 Number of official reports regarding environment by police force

Most of the official reports, viz. on average 97% of the total number of official reports drawn up by police forces, were drawn up by the local police during the period 2010-2013. On the other hand, 2.4% on average was drawn up by the federal police.

The graph above shows that the total decrease in the number of official reports drawn up during the period 2010-2013 reveals itself both in a decrease in the number of official reports drawn up by the local police and a decrease in the official reports drawn up by the federal police.

2.2.2 Evaluation of the environmental enforcement policy pursued by the federal police

The Flemish High Council of Environmental Enforcement surveyed the federal police about its activities in the field of environmental enforcement. It was asked, among other things, how many official reports were entered in the General National Database on Environmental Offences in period 2010-2013 where the identifying unit belonged to the federal police. These data were presented in the previous graph under 2.2.1. It was also asked, for instance, how many people within the federal police force had been actively involved in environmental law enforcement in the Flemish Region.

Within the federal police force 121 people were part of the Environmental Network in Flanders in 2009. This number amounted to 143 in 2010, 132 in 2011, 135 in 2012 and 126 in 2013. The purpose of this Environmental Network is to exchange information about environmental violations, offer mutual support, develop best practices together, and conduct large-scale inspections in an effective and efficient way. This network also encompasses 243 members from local police forces. However, this number of people who are actively engaged in environmental enforcement is both an overestimation and an underestimation, since this figure is an extraction from the Environmental Network database and not all people entered in this database are still actively engaged in environmental enforcement. Conversely, it is also true that not all the people who are engaged in environmental enforcement within the federal police force have been included in this network.

It is more accurate to say that, in the period 2010-2012, 49 FTEs within the federal police force were actively engaged in environmental enforcement in the Flemish Region. In 2013, this number rose to 50 FTEs.

The federal police deal with supra-local phenomena that meet the definition of serious environmental crime. This includes, among other things, the repeated and systematic non-compliance with legislation and other legal provisions; a strong connection with fraud; activities that take place on an organised basis, mostly within companies; activities with a supra-regional spread and international branches; activities that are aimed at substantial gain; and activities which often cause irreparable damage to the environment and/or pose a risk to public health.

The graph above gives an overview of the number of official reports relating to environmental crime that were entered in the General National Database over the period 2010-2013 for the Flemish Region alone. These reactive environmental enforcement identifications were made following reports, complaints or offenders being caught in the act. These official reports did not only refer to environmental offences, but also to environment-related infractions.

Proactive inspections in the framework of waste shipments on the territory of the Flemish Region²⁶

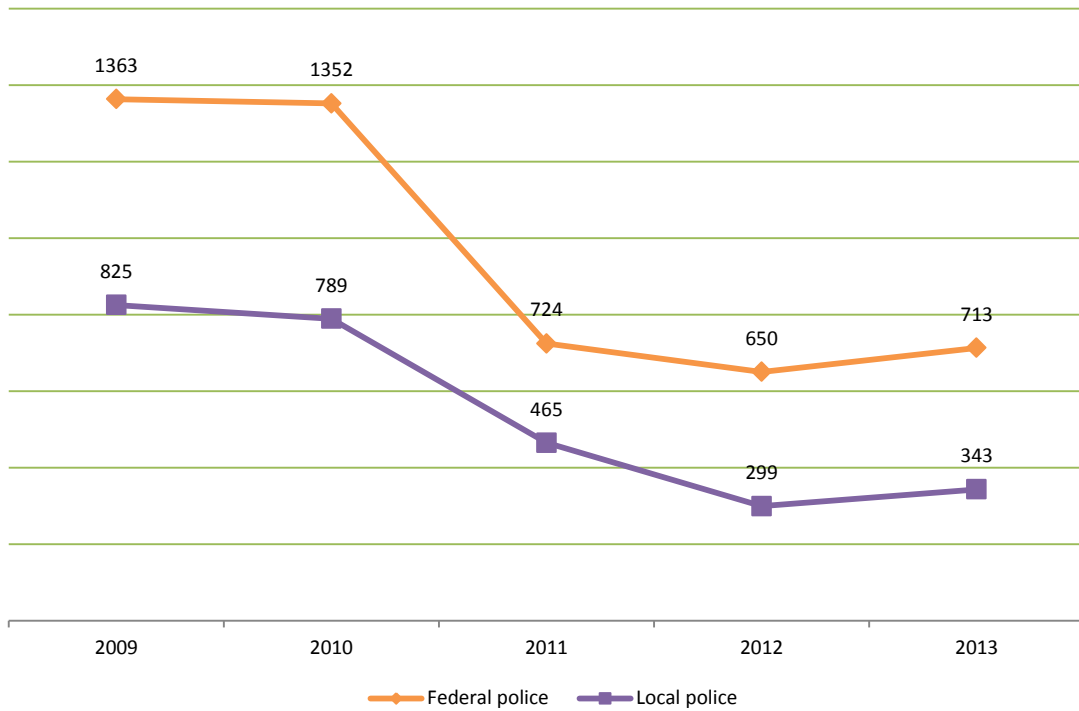
In addition to the aforementioned reactive inspections, the federal and local police also carried out proactive inspections in the framework of waste shipments on the territory of the Flemish Region.

Within the federal police force it was decided to focus on waste which represents a serious threat to public health or the environment, and which generates large (illegal) profits. This focus on inspections of waste shipments by the federal police is related to the National Safety Plan 2012-2015²⁷ in which the federal government has decided to prioritise waste management fraud, among other things.

The graph below gives an overview of the number of inspections of waste shipments that were carried out by federal and local police forces over the period 2009-2013.

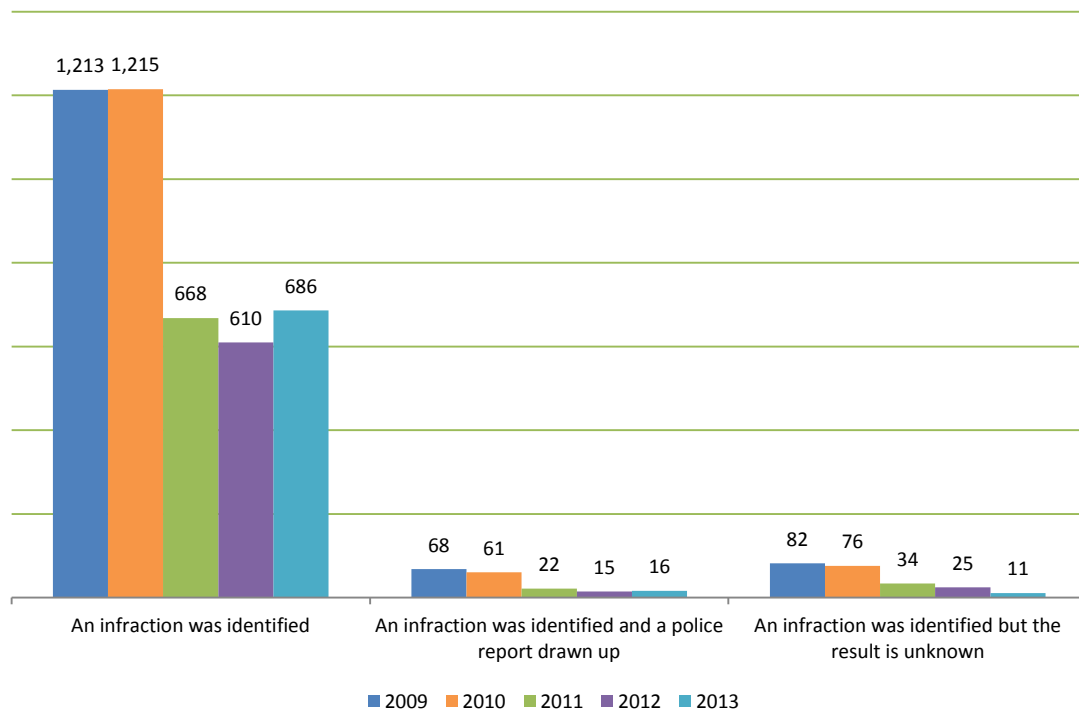
²⁶ This concerns performed waste shipment inspections that were reported to the Central Environment Service of the Federal Judicial Police by means of an ECO form for waste (EFW).

²⁷ <http://www.polfed-fedpol.be/pub/pdf/NVP2012-2015.pdf>



Graph 10 Number of proactive inspections of waste shipments by federal and local police forces

The next graph reflects the result of these inspections carried out by the federal police over the period 2009-2013.



Graph 11 Result of proactive inspections of waste shipments carried out by the federal police

Generally, a declining trend can be observed in the number of inspections of waste shipments carried out by the federal police over the period 2009-2013. Compared to 2009, a 47% decrease can be recorded in 2013. However, in 2009, the preparatory actions within the framework of the European project AUGIAS were still ongoing. AUGIAS was established by the Central Environmental Crime Unit of the Federal Judicial Police during the Belgian and Hungarian Presidencies (2010-first half of 2011) and was aimed at raising the awareness of and encouraging European police services to carry out efficient and effective waste shipment inspections in cooperation with the competent environment administrations and customs services.

No infractions were identified in 92% on average of the total number of inspections carried out by the federal police during the period 2009-2013. In 8%²⁸ of these inspections an infraction was identified. This means that when the ECO form was being completed an official report was drawn up for 3% of the total number of inspections²⁹. It is possible that afterwards, after the data were checked by the administration and infractions were identified after all, more official reports were drawn up. However, the federal police itself does not have any insight into this. This was entered in the graph above as 'An infraction was identified, but the result is unknown'. Over the period 2009-2013, the federal police referred the cases relating to 5% of the total number of inspections to the administration. After the ECO form for waste has been completed, it is submitted to the Environment Service of the Federal Judicial Police for further analysis. This Service checks the data. A number of data regarding high-risk waste streams are exchanged with the competent administrative services. Based on additional information and administrative data, infractions can therefore still be identified a posteriori, which will result in initial official reports.

In period 2010-2013 the enforcement activities of the federal police were focused on inspections of waste shipments. These activities refer to the National Safety Plan 2008-2011³⁰ and the National Safety Plan 2012-2015. The National Safety Plan defines the strategy to be followed by the Ministers for Foreign Affairs and Justice with regard to safety. It stipulates that a number of crime phenomena will be dealt with as a priority. It also determines the contribution to be made by the police services to address these phenomena.

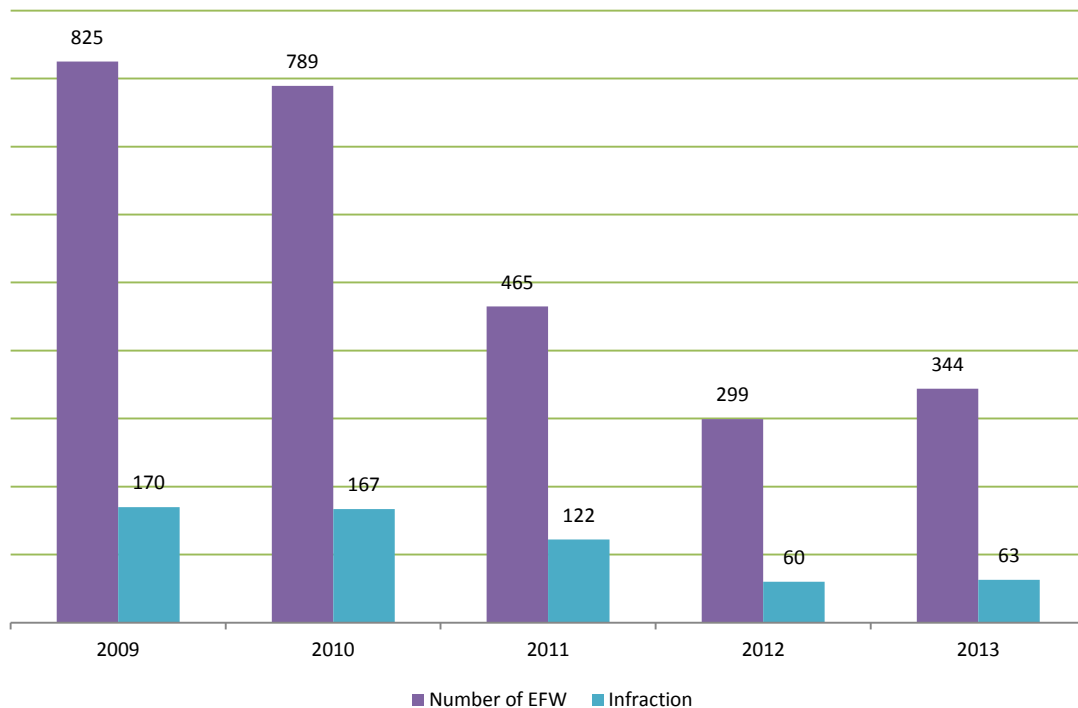
One of the crime phenomena to be tackled as a priority regards (organised) environmental crime, which was defined as any form of illegally harming (laid down in regulations or legal provisions at the regional, federal, European or international level) the environment or any attempt made thereto through destruction, pollution, etc. In the National Safety Plan 2008-2011 this approach to environmental crime further concentrates on waste fraud or the illegal harming of the environment through the non-ecological processing, removal (dumping, discharge) or mixing of waste. In the National Safety Plan 2012-2015 the focus on waste shipments can be related to waste management fraud as a priority crime phenomenon.

The next graph reflects the result of these inspections carried out by the local police during the period 2009-2013.

²⁸ On the basis of updated figures the infraction percentage amounts to 9.7%.

²⁹ For each inspection of a waste shipment (including manure), the police officer draws up a document, called ECO form for waste (EFW). By means of this document part of the waste stream can be made visible.

³⁰ <http://www.polfed-fedpol.be/pub/pdf/NVP2008-2011.pdf>



Graph 12 Result of proactive inspections of waste shipments carried out by the local police

In addition to basic police duties, the local police indeed also carries out some federal duties. For instance, it makes the necessary contributions to the phenomena that are prioritised in the National Safety Plan. Therefore, in the context of the phenomenon of (organised) environmental crime, these duties also include inspections of waste shipments and the completion of the ECO form (EFW). These may be inspections within the scope of regular traffic surveillance or organised actions. These organised actions are carried out either with or without the federal police and/or other partners. The local police also participated in the action within the scope of the aforementioned AUGIAS project. This graph shows that the local police carried out 2,722 inspections over the period 2009-2013 and identified 582 infractions (21% of the inspections).

2.2.3 Evaluation of the environmental enforcement policy pursued by local police forces

The aforementioned general section (2.2.1) on the police forces discusses the official reports that were drawn up by the local police and the federal police in the period 2010-2013 with regard to a specific environmental theme. However, the activities of the local police supervisors are treated in this separate chapter, after the activities of the federal police. This has to do with the fact that the local police have distinct duties with regard to environmental law enforcement. On the one hand, police officers have been appointed as supervisors within a police district in some cities and municipalities. On the other hand, local police forces are (24h/24h) in charge of basic police services and more specifically carry out all duties of the administrative and judicial police that are necessary to manage local events and phenomena that occur on the territory of the police district, as well as to fulfil some police duties of a federal nature. First line teams can also make identifications with regard to environmental law (on a 24/7 basis), albeit not in the capacity of supervisor within the scope of the Environmental Enforcement Act.

Within various police districts specialised environmental units can be set up or it can be opted to have one or more members of staff specialise in environment-related matters. These staff members are not always required to have supervisor status; they can also just work in the capacity of judicial police officers. For the

sake of completeness it can be remarked that in some cases the local police can be asked - on the authority of the public prosecutor's office - to hold additional and/or initial interrogations for cases that have been initiated by other services. At the same time it can be requested to verify the current situation in the field (for their own cases or not). Also, a case can be referred to them following a complaint with civil proceedings with the magistrate.

For this section in the different Environmental Enforcement Reports the superintendents of the Flemish police districts were asked each year to only report, if one or more supervisors were appointed within the police district, on the activities of this supervisor or these supervisors. This section should therefore be read in combination with the evaluation of the pursued local environmental enforcement policy (2.3).

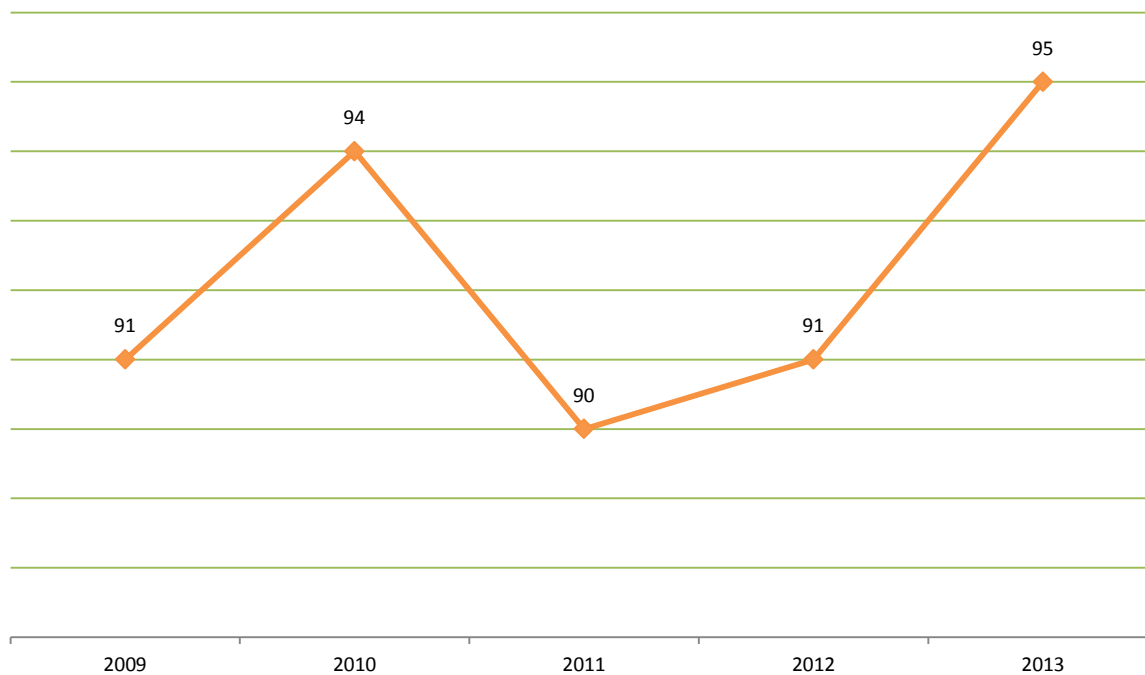
Besides the appointment of a municipal supervisor among the municipality's own staff or by an intermunicipal association, it can be opted, possibly via a cooperation agreement, to appoint supervisors among the local police force to perform municipal environmental enforcement activities. Just like the municipal supervisors among the municipality's own staff or the supervisors appointed by an intermunicipal association, these local police supervisors perform duties within the scope of the Environmental Enforcement Act.

Just like the survey for municipal supervisors (see 2.3.4.2) the survey for the police districts also inquired about the number of inhabitants in the police district, about whether or not the police district had appointed a supervisor, about the number of supervisors and the amount of time they dedicated and about the number of inspections and identifications carried out, combined with the results of these inspections. The result of the performed inspections will be discussed in Chapter 3 'Evaluation of the application of the individual environmental enforcement instruments and safety measures'.

This section will focus on the evolution of the response rate for the period 2009-2013, the number of supervisors appointed within local police districts, the average amount of time dedicated by these supervisors, the number of inspections carried out following complaints and the number of inspections carried out at own initiative, the average number of inspections per supervisor and the average number of inspections per FTE.

Response from the local police concerning the request

The graph below shows that - given that there are 117 police districts in total in the Flemish Region - the response rate of the Flemish police districts amounted on average to more than 78% over the past five years. In addition, it can be established that the response rate has risen by 4% since 2009.



Graph 13 Response from local police forces

Appointment of local police supervisors and amount of time dedicated by them

The police districts in the Flemish Region were asked to indicate whether they had appointed a supervisor, how many supervisors were appointed and how much time these supervisors dedicated to environmental enforcement duties within the scope of the Environmental Enforcement Act. The table below gives a general overview for the period 2010-2013.³¹

	2010	2011	2012	2013
Response	94	90	91	95
Police district with appointed supervisors	21	24	26	34
Police district without appointed supervisors	73	66	65	61
Number of appointed supervisors	31	45	45	56
Total amount of time dedicated to environmental enforcement (FTE)	16,43	13,78	19,41	24,48

Table 2 Appointment of local police supervisors and amount of time dedicated by them

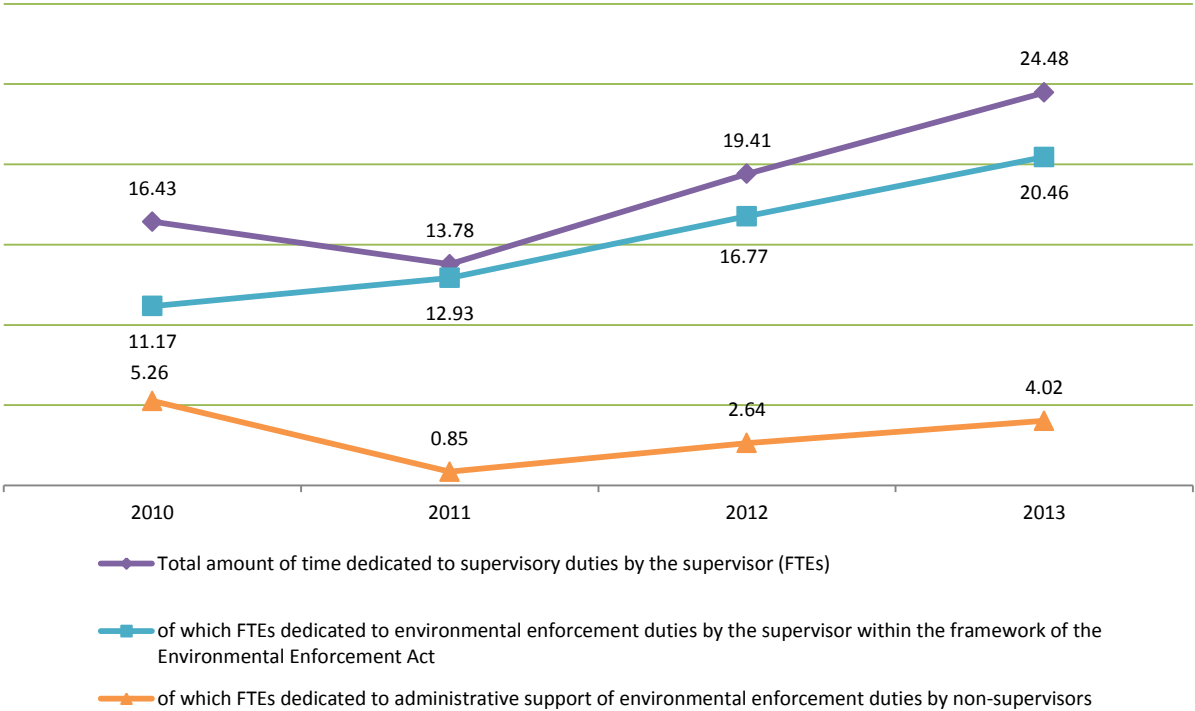
It can be concluded from the overview above that the number of responding police districts with an appointed supervisor has gradually increased over the past years. In 2010, 22% of the responding police districts indicated having appointed a supervisor within their district. This rose to 27% in 2011 and to 29% in 2012. For 2013, 36% of the responding police districts indicated having appointed a supervisor within their district. Naturally, this increase is in proportion to the decrease in the number of police districts without an appointed supervisor.

³¹ Given the fact that for the 2009 Environmental Enforcement Act the police districts were asked whether they had a supervisor at their disposal and how much time this supervisor dedicated, without specifying whether this supervisor had been appointed within the municipality, within an intermunicipal association or within the police districts, the data from the 2009 Environmental Enforcement Report are not reflected in this overview.

Not only the number of police districts with an appointed supervisor has risen over the past years, but also the total number of supervisors appointed within local police forces. This increase amounts to 81%. The growing number of appointed supervisors goes hand in hand with an increase in the total number of FTEs that were dedicated to environmental enforcement duties within the police districts. However, over the past years this increase did not run parallel to the increase in the number of supervisors, since the increase only amounted to 49%.

It can be concluded from the above table that a growing number of police districts within the Flemish Region opt to appoint a supervisor within their district. This also results in a continuous increase in the number of local police supervisors over the past years and an increase in the total amount of time dedicated by the local police to environmental enforcement duties within the scope of the Environmental Enforcement Act.

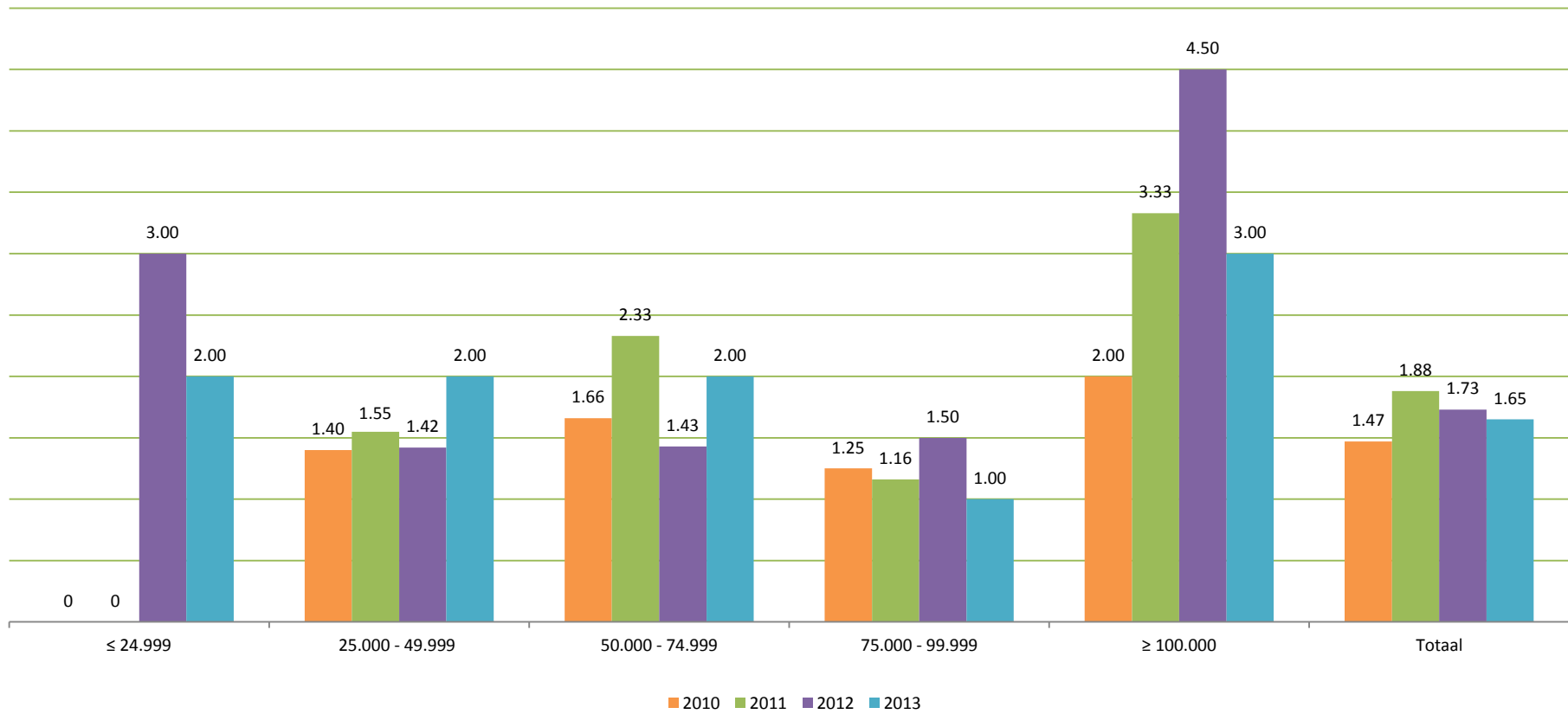
The graph below gives an overview of the overall amount of time dedicated to environmental enforcement duties, and the breakdown thereof into the total number of FTEs dedicated to environmental enforcement duties by supervisors within the scope of the Environmental Enforcement Act and the total number of FTEs dedicated to the administrative support of environmental enforcement duties by non-supervisors.



Graph 14 Number of FTEs dedicated to environmental enforcement duties and number of FTEs dedicated to administrative support

The presentation above clearly shows that the majority of the total number of FTEs dedicated to environmental enforcement duties were dedicated to environmental enforcement duties by the supervisors and to a lesser extent to administrative support by non-supervisors. This is an average ratio of 83.5% and 16.5% respectively over the period 2010-2013.

The next graph shows the average number of supervisors per police district over the period 2010-2013, broken down into 5 categories on the basis of the population.



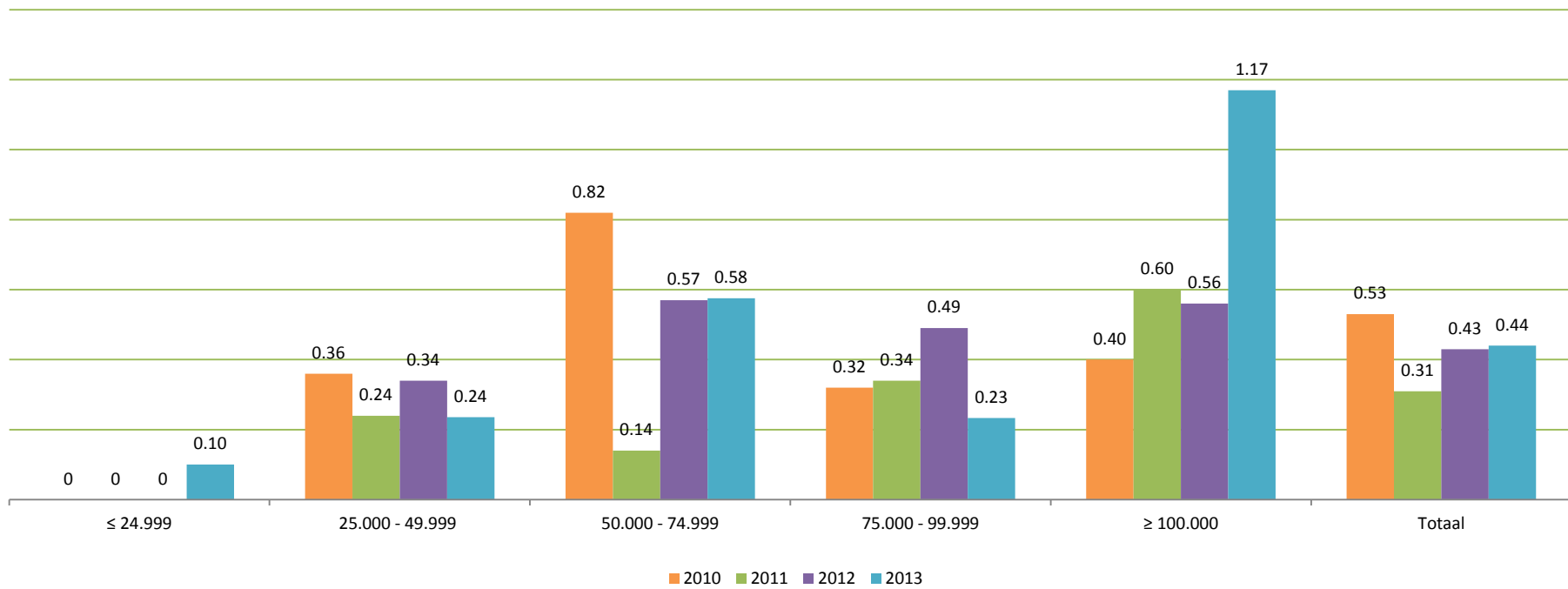
Graph 15 Average number of supervisors per police district

It can be concluded from the data above that the total number of police districts with a supervisor has increased since 2010, just like the total number of supervisors appointed within the police districts. However, generally it can be concluded that the average number of supervisors per police district in 2013 increased compared to 2010, but decreased compared to 2011 and 2012. As a result, the average number of supervisors per police district generally remained relatively stable over the period 2010-2013, amounting to 1.68 per police district.

When looking at the different categories of police districts, it can be concluded that the average number of supervisors per police district rose slightly in most categories compared to 2010, but fluctuated in the period 2010-2013. At the same time it can be concluded that the average number of supervisors per police district is the highest in the category with the largest population. However, the number of inhabitants in the police district has hardly or no impact on the average number of police district supervisors in the other categories.

The next graph gives an overview of the average amount of time dedicated to environmental enforcement duties³² per supervisor during the period 2010-2013, broken down into 5 categories on the basis of the population.

³² The average amount of time dedicated per supervisor is the total number of indicated FTEs dedicated to environmental enforcement duties per police district category, divided by the total number of indicated appointed supervisors per police district category.



Graph 16 Average amount of time dedicated to environmental enforcement duties per local police supervisor

The average amount of time dedicated to environmental enforcement duties by police district supervisors amounted to 0.43 FTEs in 2012 and 0.44 FTEs in 2013. This is an increase compared to the average amount of time dedicated in 2011, but a decrease compared to 2010. Over the period 2010-2013 the average amount of time dedicated was 0.43 FTEs, which means that the average local police supervisor dedicates just less than half of his or her time to the implementation of environmental enforcement duties within the scope of the Environmental Enforcement Act. Since there were on average 1.68 supervisors per police district with an appointed supervisor during the period 2010-2013, an average amount of time³³ of 0.72 FTEs was dedicated to enforcement duties in the police districts that had appointed a supervisor.

However, this average amount of time dedicated in FTEs differs strongly when looking at the different separate categories. Despite the fact that supervisors were appointed over the period 2010-2013, no or only limited time (2013) was dedicated to environmental enforcement in the police districts with fewer than 25,000 inhabitants. This shows that these appointments were probably only made for appearance's sake.

In the other categories no uniform picture can be established with regard to the average amount of time dedicated within the police districts during the period 2010-2013. In terms of the amount of time dedicated over the period 2010-2013, it can be calculated that the category of police districts with 25,000 to 49,999 inhabitants reported an average amount of time dedicated of 0.43 FTEs, the category of police districts with 50,000 to 74,999 inhabitants an average of 0.92 FTEs, the category of police districts with 75,000 to 99,999 inhabitants an average of 0.52 FTEs and the largest category of police districts an average of 2.21 FTEs. Again, it can be concluded that the number of inhabitants in the police district had no or only limited impact on the average amount of time dedicated to environmental enforcement duties, except for the smallest police districts where no time was dedicated and the largest police districts where the average amount of time dedicated was substantially higher than in the other categories.

In order to gain an insight into the activities of local police supervisors over the period 2010-2013, the table below reflects the total number of environmental enforcement inspections that were carried out each year within the scope of the Environmental Enforcement Act.

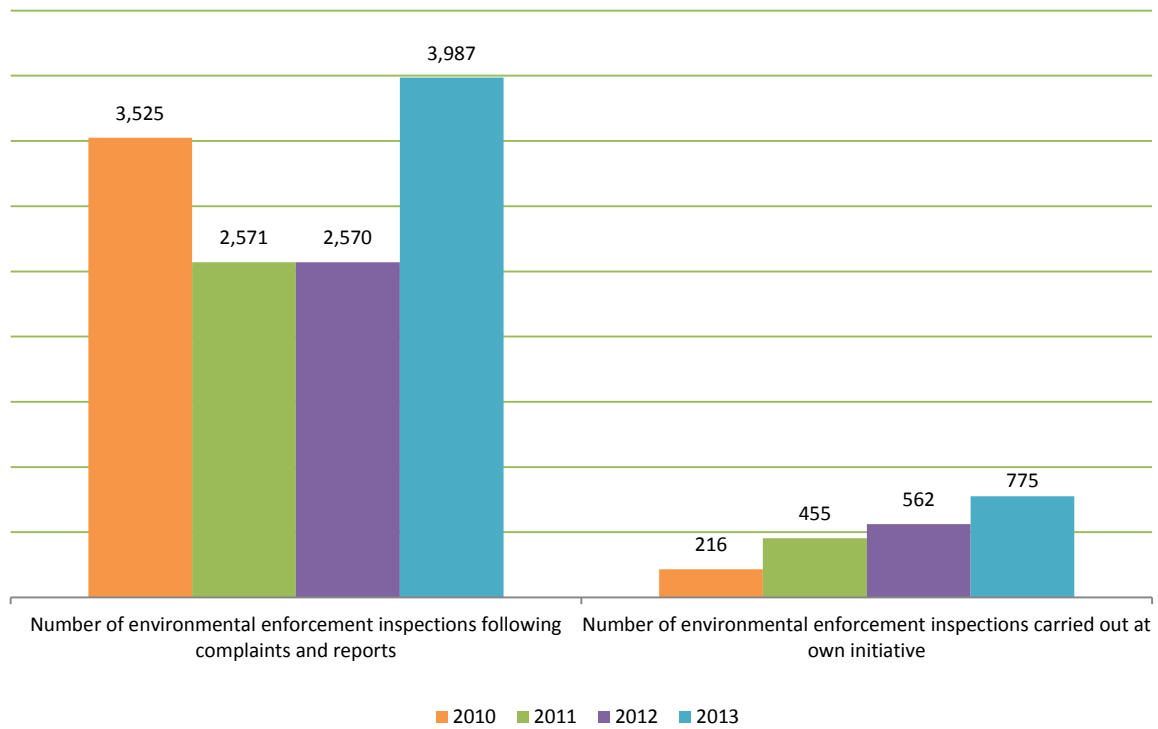
	2010	2011	2012	2013
Response	94	90	91	95
Number of appointed supervisors	31	45	45	56
Number of environmental enforcement inspections carried out	3,741	3,026	3,132	4,762

Table 3 Total number of environmental enforcement inspections carried out

Despite the fact that the average amount of time dedicated in the police districts remained fairly stable over the period 2010-2013, a remarkable increase can still be observed in the number of inspections carried out within the scope of the Environmental Enforcement Act. There is indeed an increase of 27% over the period 2010-2013.

Since the 2010 Environmental Enforcement Report the police districts have also been asked to break down the environmental enforcement inspections carried out into the number of environmental enforcement inspections following complaints and reports and the number of environmental enforcement inspections carried out at own initiative. The graph below gives an overview of this breakdown for the period 2010-2013.

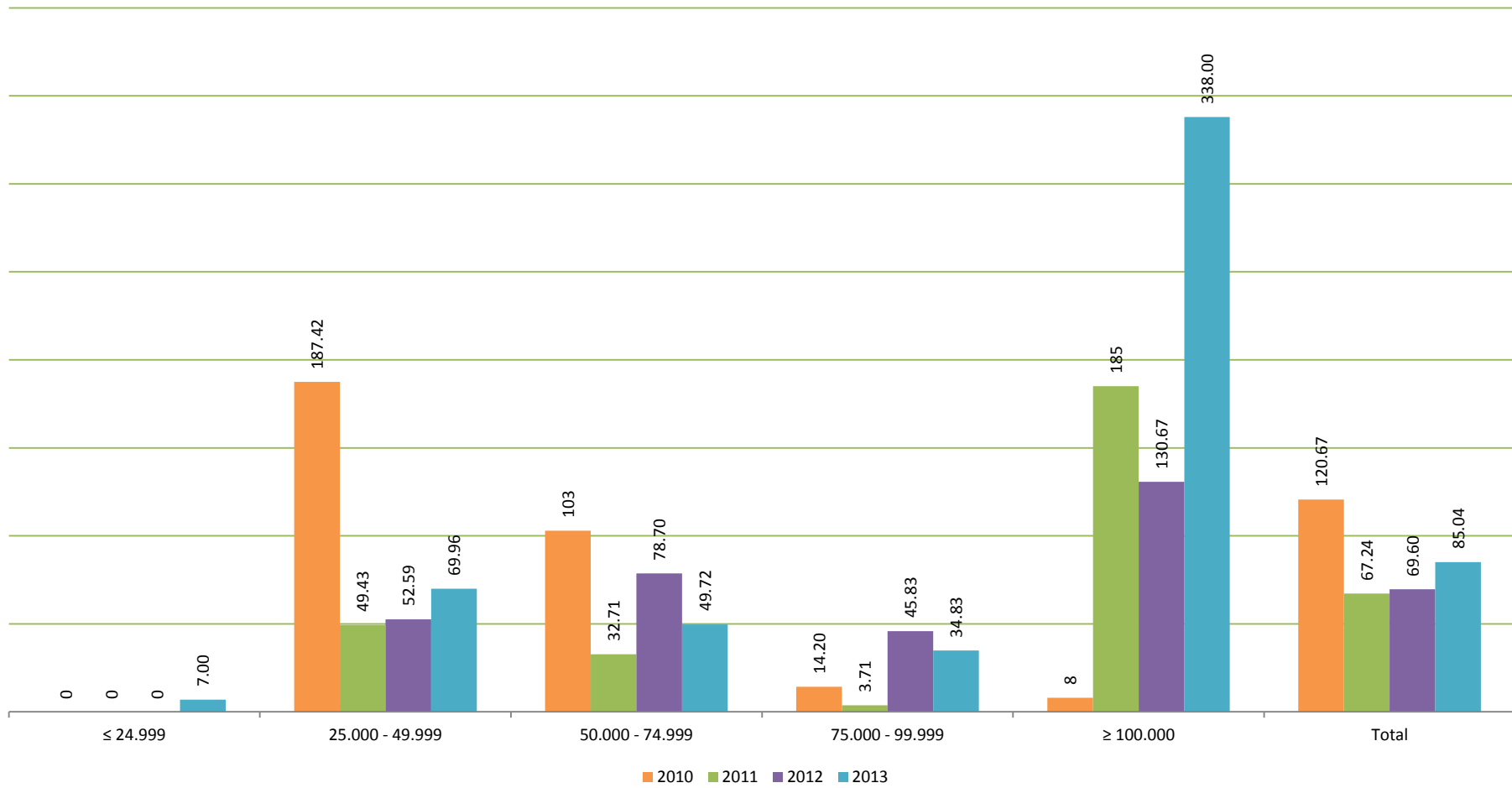
³³ This amount of time dedicated is calculated by multiplying the average amount of time each supervisor dedicates to supervisory duties by the average number of supervisors per police district (which also actually appointed a supervisor). In this way a picture can be given of the average number of FTEs that are dedicated to environmental enforcement duties within a police district that actually appointed one or more supervisors..



Graph 17 Number of environmental enforcement inspections following complaints and reports and number of environmental enforcement inspections carried out at own initiative

It can be concluded that the increase in the number of inspections in 2013 was mainly recorded for the environmental enforcement inspections carried out following complaints and reports. An increase can also be observed in the number of inspections carried out at own initiative, amounting to an increase of more than 259% compared to 2010. Over the period 2010-2013, on average almost 14% of the inspections were carried out proactively.

The following graph gives an overview of the average number of inspections per supervisor by police district category.

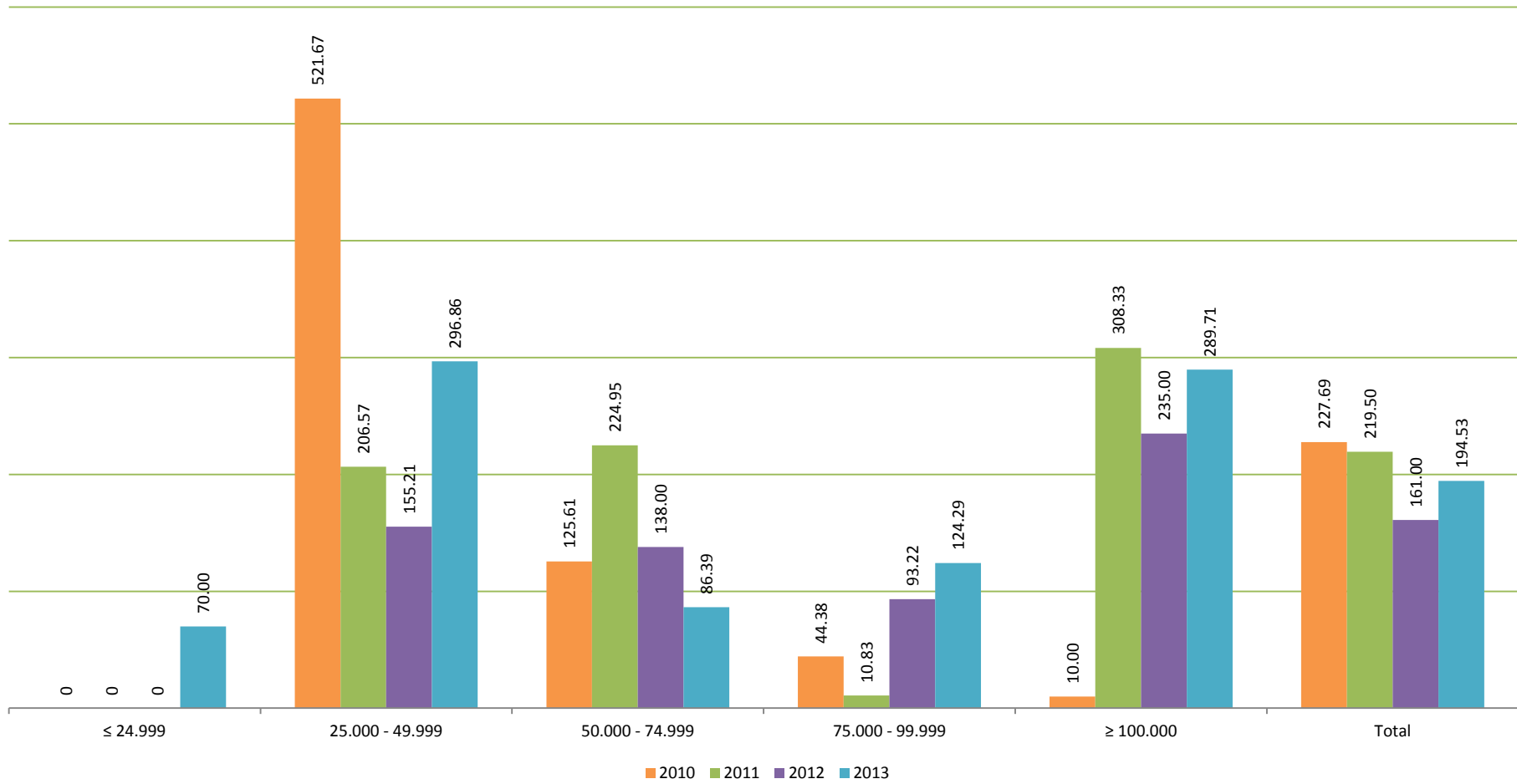


Graph 18 Average number of environmental enforcement inspections per local police supervisor

Since both the number of supervisors and the number of performed inspections increased over the period 2010-2013, it can be concluded that a growing number of inspections are carried out by local police supervisors. This can also be observed in the above graph. Generally speaking, except for 2010³⁴, the number of inspections per supervisor increased. However, the picture of an increase in the average number of inspections per supervisor is more diffuse when looking at the different police district categories. In a number of categories an increase is reported, although this is subject to fluctuations over the period 2010-2013. In other categories a decrease can be recorded. Again, it can be concluded that the number of inhabitants in the police district has little or no impact on the average number of inspections per supervisor, except for the smallest police districts with no or a limited number of inspections per supervisor and the largest police districts where the average number of inspections per supervisor is substantially higher.

The following graph gives an overview of the average number of environmental enforcement inspections per FTE by police district category over the period 2010-2013.

³⁴ For the 2010 Environmental Enforcement Report one police district in the category of police districts with 25,000 to 49,999 inhabitants reported having carried out 1,710 inspections. This would mean that in 2010 about half of the total number of environmental enforcement inspections were carried out by one single police district.



Graph 19 Average number of inspections per FTE

Generally, the graph shows that following a decrease in the average number of inspections per FTE in 2011 and 2012, a slight increase can again be recorded in 2013. Given the fact that the average amount of time dedicated has remained stable, this slight increase is owing to the increase in the number of performed environmental enforcement inspections, more specifically the increase in the number of environmental enforcement inspections carried out following a complaint or report. A reverse movement - decrease in average number of inspections per FTE and increase in number of proactive inspections - could be observed in the 2012 Environmental Enforcement Report. It can be assumed that if the nature of the inspection changes, so does the time that is dedicated to an inspection. Such a downward curve can also be recorded in the different categories of police districts. Only the category of police districts with 50,000 to 99,999 inhabitants reveals a reverse trend.

Again, the size of the police district does not have any significant impact on the average number of inspections per FTE. In the largest police districts and the police districts with 25,000 to 49,999 inhabitants this number exceeds the average, whereas it is lower than the average in the police district category with a population between 50,000 and 99,999.

2.3 Evaluation of the pursued local environmental enforcement policy

Provinces

2.3.1 Provincial governors

The competences of the provincial governors of the 5 Flemish provinces are very clearly defined in the Environmental Enforcement Act. More specifically, they are authorised to impose administrative measures and/or safety measures in the framework of:

- the Act of 26 March 1971 on the protection of surface waters against pollution;
- Flemish Parliament Act of 23 December 2011 on the sustainable management of closed materials cycles and waste;
- Articles 4 (operation without a licence) and 22 (operation Categories 2 and 3 without complying with the licensing requirements) of the Flemish Parliament Act of 28 June 1985 on environmental licences.

The provincial governors were asked to give an overview of the requests/petitions they received for the imposition of administrative measures, as well as of the number of administrative measures that were actually imposed following these requests/petitions. It was also asked to give the number of requests which the provincial governor received for the imposition of safety measures and the number of safety measures that were actually imposed.

Administrative measures

Provincial governors can be requested or petitioned to impose administrative measures. Requests for the imposition of administrative measures are to be understood as requests from supervisors to the provincial governor to take administrative measures. On the other hand, administrative measures can also be the subject of a petition for imposition by people who suffer direct loss as a result of an environmental infringement or environmental offence, people who have an interest in this environmental infringement or environmental offence being controlled, and legal persons as referred to in the Act of 12 January 1993 on a right of action with regard to the protection of the environment. This petition must be made by registered letter to the people

authorised to impose administrative measures and by means of a petition, stating sufficient reasons, which shows that an environmental infringement or environmental offence is taking place, and in keeping with a strict procedure with short terms.

The graph below lists the number of requests/petitions for the imposition of administrative measures which the provincial governors received during the period 2009-2013.



Graph 20 Number of requests/petitions for the imposition of administrative measures to the provincial governor

In total, the provincial governors received only 14 requests/petitions for the imposition of administrative measures in the period 2009-2013. 50% of these requests/petitions were submitted to the governor of the Province of Antwerp. The governor of the Province of West Flanders did not receive any requests/petitions for the imposition of administrative measures in the period 2009-2013.

Neither following the aforementioned requests, nor at their own initiative did the provincial governors impose any administrative measures in the period 2009-2013. Only in 2011 did the governor of the Province of Limburg impose 1 administrative measure in the form of administrative enforcement, whereby effective action was taken against the identified environmental infringement or environmental offence.

It can be concluded that the instrument 'requests/petitions for the imposition of administrative measures' addressed to the provincial governors and the actual imposition of administrative measures by provincial governors is hardly to never used. The reason for this could be twofold. On the one hand, because the supervisors - either regional or local - are better placed to impose administrative measures themselves, since the supervisors can act independently and neutrally (cf Article 16.3.3 of the Environmental Enforcement Act) and with the required expertise, qualifications and abilities (cf Article 16.3.2 of the Environmental Enforcement Act) instead of submitting a request to that end to the provincial governor. Another or additional explanation could be that third parties which can file petitions for the imposition of administrative measures with the provincial governor are not informed about this possibility and in the first instance opt to contact the environmental department of the municipalities or the local police (primary monitoring) in order to reach the supervisor. Another reason may be the lack of capacity, support, personnel or experience which the governors were faced with to actually implement the new competences under the Environmental Enforcement Act. Therefore, it may have been opted to have the supervisors themselves impose the administrative measures.

Safety measures

Article 16.7.1 of the Environmental Enforcement Act stipulates that safety measures are measures through which provincial governors, amongst others, can take or impose any actions they consider necessary under the given circumstances to eliminate, reduce to an acceptable level or stabilise a substantial risk to man or the environment.

Provincial governors - and therefore also mayors - can take safety measures by virtue of their function or upon a supervisor's request. For this reason, the provincial governors were asked how many requests for the imposition of safety measures they received and how many safety measures they actually imposed.

During the period 2009-2013, none of the provincial governors received a request for the imposition of a safety measure and none of them imposed a safety measure by virtue of their office.

2.3.2 Provincial supervisors

Appointed provincial supervisors

Article 16.3.1, §2, 2° of DABM stipulates that personnel of the province can be appointed as supervisors by the Provincial Executive. These are the so-called provincial supervisors.

With a view to this provision, the VHRM therefore considered it appropriate to ask the registrars of the five Flemish provinces about the appointment of these supervisors and their efforts with regard to environmental enforcement duties.

In the framework of DABM, these provincial supervisors are competent to monitor compliance with:

- Article 2 of the Act of 26 March 1971 on the protection of surface waters against pollution, Category 2 and 3 unnavigable watercourses and their appurtenances;
- Flemish Parliament Act of 23 December 2011 on the sustainable management of closed materials cycles and waste, Category 2 and 3 unnavigable watercourses and their appurtenances.

It could be established that during the period 2009-2011, none of the provinces had a supervisor, as referred to in Article 16.3.1, §1, 2° of the Environmental Enforcement Act, who was appointed by the Provincial Executive, or a Vlare official at their disposal. From 2012 onwards, only the Province of Antwerp had 8 supervisors at its disposal. For 2013, the Province of East Flanders also communicated having appointed 2 supervisors.

Efforts related to environmental enforcement duties

These 8 provincial supervisors in the province of Antwerp reported having dedicated a total of 0.2 FTEs to environmental enforcement duties, both in 2012 and 2013. In addition, 0.2 FTEs were dedicated to the administrative support of environmental enforcement duties by non-supervisors. These supervisors each time carried out one inspection, both in 2012 and in 2013, following a complaint or report.

In the Province of East Flanders 2 provincial supervisors were appointed in 2013 who together dedicated 1.5 FTEs to enforcement duties. No FTEs were dedicated to the administrative support of environmental enforcement duties by non-supervisors. In 2013, these supervisors carried out 7 inspections, 5 of which were proactive inspections and 2 of which were carried out following complaints or reports.

2.3.3 Competences of provinces regarding unnavigable watercourses (other than those included in the Environmental Enforcement Act) by appointed provincial staff

Apart from the duties of the provinces under the Environmental Enforcement Act, account should be taken of their responsibilities as watercourse managers. Within this context the provinces also have a duty to monitor compliance with legislation that is not included in Title XVI of the Environmental Enforcement Act, but for which provincial staff were appointed per province to carry out these supervisory duties, namely:

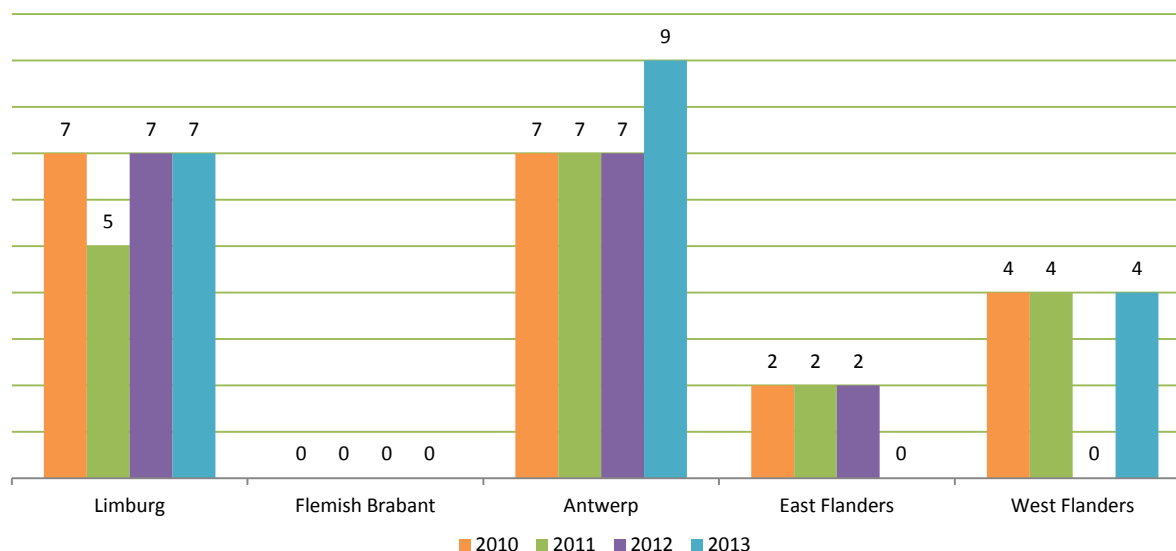
- Act of 28 December 1967 on unnavigable watercourses;
- Royal Decree of 5 August 1970 containing the general police regulations on unnavigable watercourses.

Despite the fact that this legislation has not been entered in the Environmental Enforcement Act, this supervision and any related inspections or inspectors are briefly discussed below in this Environmental Enforcement Report for the period 2010-2013.³⁵

Within the Flemish Environment Agency as well some staff members are in charge of supervising compliance with the Act of 28 December 1967 and the related implementing orders for Category 1 unnavigable watercourses. No data were collected about this from the Flemish Environment Agency.

Appointed provincial staff

The graphs below give an overview of the number of provincial staff members who are authorised to supervise and inspect the unnavigable watercourses, as well as the number of FTEs that were dedicated to these inspections by the provincial staff members over the period 2010-2013.

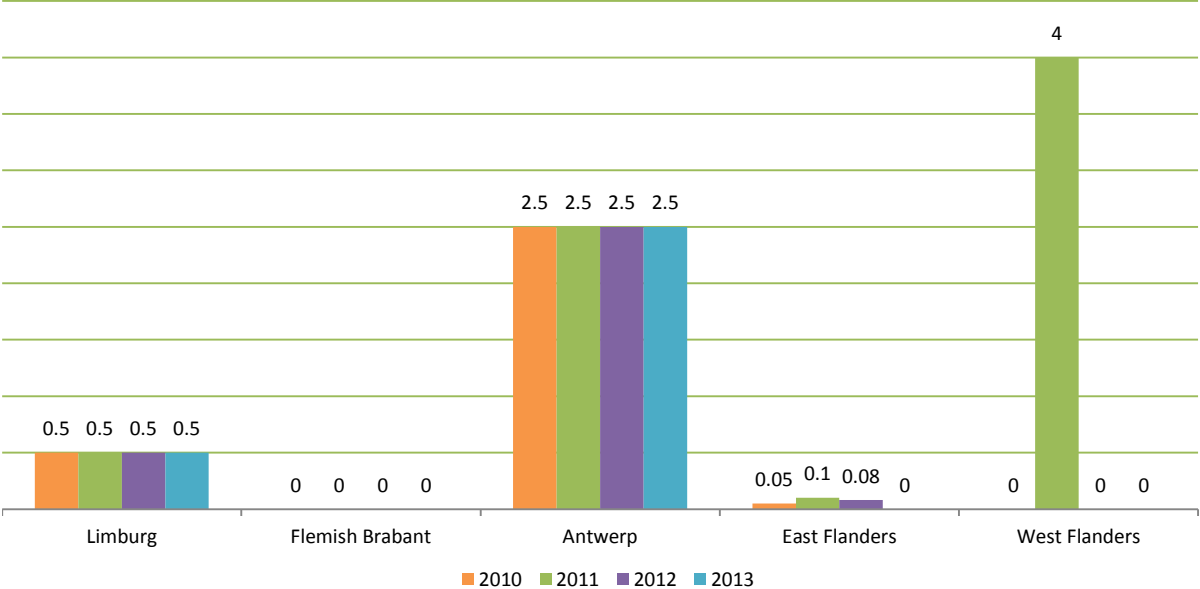


Graph 21 Number of provincial staff in charge of supervising and inspecting unnavigable watercourses

³⁵ These data were not collected for the 2009 Environmental Enforcement Report.

Over the period 2010-2013 the Flemish provinces had on average a total of 18.5 provincial staff members at their disposal for the inspection of unnavigable watercourses.

At the same time a certain discrepancy can be observed in the response from the provinces of East and West Flanders. For the province of Flemish Brabant a non-response is recorded for the years 2010, 2011 and 2012.



Graph 22 Number of FTEs dedicated to the supervision and inspection of unnavigable watercourses

The number of FTEs dedicated to the inspection of unnavigable watercourses by staff members from the Provinces of Limburg and Antwerp remained unchanged. Over the period 2010-2013, an average of 0.08 FTEs were dedicated each year to these inspection duties per appointed provincial staff member in the Province of Limburg. In the Province of Antwerp this was on average 0.38 FTEs. In the Provinces of East and West Flanders this number amounted to 0.029 FTEs and 0.25 FTEs respectively.

Efforts of appointed provincial staff members with regard to un navigable watercourses	Province																			
	Limburg				Flemish Brabant				Antwerp				East Flanders				West Flanders			
	2010	2011	2012	2013	2010	2011	2012	2013	2010	2011	2012	2013	2010	2011	2012	2013	2010	2011	2012	2013
Number of inspections of un navigable watercourses	50	30	50	75	/	/	/	0	100	/	/	/	29	22	35	0	0	0	0	0
Number of official reports drawn up during these inspections of un navigable watercourses	2	10	1	0	/	/	/	0	0	0	0	0	0	2	3	0	0	0	0	0
Number of exhortations formulated during these inspections of un navigable watercourses	10	20	10	10	/	/	/	0	100	90	30	30	15	9	7	0	0	0	0	0

Table 4 Efforts regarding un navigable watercourses by appointed provincial staff members per province

Efforts with regard to unnavigable watercourses

Table 4 gives an overview of the number of inspections that were carried out by the provincial staff members with regard to unnavigable watercourses in the period 2012-2013, the number of exhortations that were formulated during these inspections and the number of official reports that were drawn up following the identification of an offence during these inspections.

In total, 319 inspections of unnavigable watercourses were carried out in the Flemish provinces over the period 2010-2013³⁶. Most of these inspections, namely 64%, were carried out by provincial staff members from the Province of Limburg. When looking at the average number of inspections per supervisor and per FTE in Limburg, this number amounts to an average of 7.75 inspections per supervisor and an average of 102.5 inspections per FTE during the period 2010-2013. For on average 40% of the inspections an official report was drawn up or an exhortation was formulated.

In 2013, the Provinces of Flemish Brabant, East Flanders and West Flanders did not carry out any inspections of unnavigable watercourses.

The following table gives an overview of the infractions that were identified by the provinces in the period 2010-2013 following inspections of unnavigable watercourses.

³⁶ The Province of Antwerp communicated that the inspections were part of the daily duties.

Type of offence	Province																			
	Limburg				Flemish Brabant				Antwerp				East Flanders				West Flanders			
	2010	2011	2012	2013	2010	2011	2012	2013	2010	2011	2012	2013	2010	2011	2012	2013	2010	2011	2012	2013
Damage to banks	1	3	2	2	0	/	/	0	25	20	10	10	6	5	8	/	0	0	0	/
Discharge into watercourse	5	4	0	4	0	/	/	0	10	10	5	5	0	0	0	/	0	0	0	/
Other	6	13	8	4	0	/	/	0	65	60	15	15	23	19	32	/	0	0	0	/

Table 5 *Infraction types per province*

The above table indicates that a total of 395 infractions were identified. Despite this large number of infractions only 18 official reports were drawn up in this period, as is apparent from the previous table.

In the period 2010-2013, the total number of identified infractions strongly decreased, namely from 141 in 2010 to 134 in 2011, 80 in 2012 and 40 in 2013. This is a decrease of almost 72%.

2.3.4 Supporting role of the provinces with respect to the municipalities

The activities of the provinces in the area of environmental enforcement are not only discussed in the framework of the Environmental Enforcement Act. They can also be analysed via the reporting in the framework of the Cooperation Agreement 2008-2013. This Cooperation Agreement 2008-2013 is a voluntary agreement between the Flemish Region and the Flemish provinces in the area of environment, under which financial and content-oriented support from the Government of Flanders is obtained in exchange for the implementation of certain actions. All five Flemish provinces have signed this cooperation agreement. Among other things, this implies that the provinces are responsible for the guidance, coordination and support of municipal environmental policy. The provinces take an active supporting role with respect to individual municipalities, and provide guidance to municipalities depending on their needs. The provinces are under the obligation to draw up an annual report on the implementation of the provincial cooperation agreement. This report touches upon the following topics in conformity with the agreements made: instruments, waste, product use, water, nuisance, energy, mobility, nature, soil and sustainable development.

Therefore, this Environmental Enforcement Report discusses the reports from the five provinces within the framework of the Cooperation Agreement 2008-2013 and with regard to the period 2009-2013 in the light of the supporting role of the provinces vis-à-vis the municipalities in the field of environmental enforcement. The data below thus originate from reports of the five provinces within the framework of the Cooperation Agreement 2008-2013. In each province these supporting duties are carried out through information centres and through the set-up of regional meetings and the (co-)organisation of training pathways, consultations and training.

Province of Limburg

In the Province of Limburg the Limburg professional training centre, PLOT, organised the training for local supervisors. This was taken over by the Centrum Duurzaam Groen which currently organises the training regarding environmental law together with PIVO, the Provincial Institute for Education and Training (Flemish Brabant). In 2010 and 2013, for instance, the in-service training for obtaining a certificate of competence for unlimited duration was organised for supervisors 'Noise'.

In addition, the province organised training around the implementation of noise measurements, the evaluation of noise levels and odour measurements and assessments, new provisions regarding electronically amplified music and noise at music festivals, and MKROS (environmental complaints, registration and follow-up system).

The Province of Limburg also organised training, information sessions and study days within the scope of environmental enforcement, like a study day for environmental officers on how to draw up official reports, a study day for environmental officers and local supervisors on the Environmental Enforcement Act, and an information session on the new noise standards.

Province of Flemish Brabant

The Provincial Institute for Training and Education organised the training for local supervisors in the period 2009-2013 for the school year 2009-2010. In addition, the Province of Flemish Brabant organised in 2011 the training "renewal of Competence of Certificate for noise nuisance abatement" in cooperation with the

Provincial Institute for Training and Education. Two sessions were also organised of the refresher course "environmental supervisor" (theory and practice). In 2012, the training for local supervisors was started again. In 2013, the training for supervisors 'Noise' was organised. In addition, an information session "new noise standards for music activities" was organised.

During the consultation meetings of environmental officers in the Province of Flemish Brabant the officers consult with each other, discuss joint problems and exchange information about how to address problems, including environmental nuisance, as well as with regard to the new noise standards for music activities and the cooperation with (intermunicipal) police districts in the enforcement of the standards, or with regard to the integrated environmental permit/permanent licence, environmental enforcement, the Vlare legislation, the Environmental Enforcement Decree and the role of supervisory officers.

In addition, an environmental enforcement platform was started in the Halle-Vilvoorde district at the initiative of the federal police of Asse. This forum is open to anyone who is actively engaged in environmental supervision. Together with the Regional Environmental Activities Unit the federal police determines the agenda of the meetings of this forum and the municipalities are invited to this consultation by the Regional Environmental Activities Unit. Similar platforms already existed in other districts. Topics relating to environmental enforcement were regularly on the agenda of the district consultation meetings of environmental officers.

Province of Antwerp

The Provincial Hygiene Institute (Provinciaal Instituut voor Hygiëne or PIH) has been organising advanced environmental law training courses since 2005. These study days mainly deal with recent modifications to environmental law. In addition to the MKROS training, the Province of Antwerp organised, during the period 2009-2013, several courses to support local enforcement actors. These courses concerned, among other things, implications of Salduz on environmental enforcement, the Vlare legislation, the Materials Flemish Parliament Act, agriculture, noise standards and hearing protection, the integrated environmental permit, etc.

In 2010, the 'environmental enforcement platform' was set up. This series of training courses is intended on the one hand to give information and support, and on the other hand to allow local environmental enforcement bodies to share their questions and experiences. This platform is open to local police officers and local supervisors. In the context of this series of courses, training programmes were organised, among other things, with regard to the hotel and catering industry, illegal waste incineration and illegal dumping, livestock farming, the enforcement of legislation in car washes, garages and car body shops, swimming pools, saunas and fitness centres, etc. These training programmes offer concrete information that can 'immediately' be used in the context of environmental enforcement.

In 2010, the Institute for Training and Education of the Province of Antwerp organised the training for local supervisors. The province of Antwerp also organised the training for local supervisors in 2012, which, in keeping with the Environmental Enforcement Decree, involves a lot of lessons regarding noise nuisance and air pollution. In 2013, preparations were made for the organisation of this training in 2014. In the period from November to December 2011 a training course was given in the province of Antwerp for obtaining (or renewing) the Certificate of Competence for noise measurements.

Periodical consultations were planned in the local police districts where the topics of 'enforcement in general', 'biodiversity and animal welfare', 'fireworks', the 'species decree' and environmental nuisance issues across municipal borders, among other things, were explained and discussed.

The Province of Antwerp works with provincial experts, sampling, laboratory tests and noise measurements carried out by the PIH. These services are provided to environmental officers and extended to include local police officers.

Province of East Flanders

In East Flanders the Provincial Centre for Environmental Research (Provinciaal Centrum voor Milieuonderzoek or PCM) organised a Vlare training course in 2009 and therefore offered support for the training of local supervisors. In the 2010-2011 school year the Oost-Vlaamse Bestuursacademie (OBAC) organised the training for local supervisors. This training consisted of several modules for which people could also enrol separately, such as environmental legislation, environmental law enforcement, waste, surface water pollution, air, noise nuisance, environment and nature conservation, and soil and water pollution. In 2012, an additional training course was organised for those who are in possession of the Certificate "Noise Nuisance Abatement", with an eye to obtaining a Certificate of Competence 'Noise Supervision'. In 2013 as well, theoretical and practical training was given on the 'basic principles regarding noise nuisance' as part of the training for local supervisors "Environmental enforcement" and local supervisors 'Noise'. In the period 2009-2013 the Province of East Flanders organised study days as well, among other things with regard to the new noise regulations and noise measurements.

When the Province of East Flanders designed a campaign on illegal dumping, it devoted attention to relevant enforcement activities. The idea was to encourage municipal environmental officers and police districts to design a specific enforcement campaign around illegal dumping. The municipalities could use campaign material made available by the province. The Province of East Flanders uses an "environmental contract". In exchange for a contribution, a team of provincial experts offers support in the technical-scientific, legal, policy or educational field. Moreover, sampling, laboratory tests and noise measurements can be carried out by the Provincial Centre for Environmental Research.

In the Province of East Flanders the theme "enforcement" is discussed through the provincial environmental network for police and environmental officers. During the period 2009-2013 meetings and training days were organised with regard to "environmental enforcement in practice", "environmental law enforcement", "asbestos", etc. In addition, a lawsuit could be attended at Ghent Court and a meeting was organised around animal welfare.

The municipalities of the Province of East Flanders can turn to the Provincial Centre for Environmental Research for technical scientific support in the field of nuisance and noise.

Province of West Flanders

In 2011, the Province of West Flanders organised the training for local supervisors.

In addition, the Province of West Flanders organised training courses, study days and workshops during the period 2009-2013, including with regard to the MKROS monitoring and reporting module, the drafting of an official report, the new noise standards, litter, environmental enforcement and the Environmental Enforcement Act.

Together with the intermunicipal companies WVI and Leiedal, the Province of West Flanders organises regional meetings - in the context of the Regional Environmental Consultation - where themes such as Vlare, environmental enforcement, and "communicating with your neighbours" are discussed.

In the period 2009-2013, the five Flemish provinces and the Flemish administration together organised a study day on noise nuisance for local licensing and enforcement bodies. This study day took place in Leuven on 28 January 2011 and was repeated in Ghent on 28 February 2011. The themes discussed at these study days included, among other things, the transposition of the Flemish odour policy into a local odour policy, the

interpretation of odour studies and EIRs, odour issues to be considered when granting licences, the processing of odour complaints, and parallel sessions with practical experience in specific aspects of odour issues.

Flemish cities and municipalities

Just like for the aforementioned enforcement actors, it is attempted, based on the supervisory duties carried out by the Flemish cities and municipalities, to provide an insight into the efforts they made in the area of local environmental enforcement.

Similarly to the Flemish provinces, the supervisory duty of the Flemish cities and municipalities is twofold. In practice this is reflected in the fact that the Environmental Enforcement Act defines enforcement duties for two municipal actors: the mayor and the municipal supervisor.

The competences of the mayors of the 308 Flemish cities and municipalities are very clearly specified in the Environmental Enforcement Act. Concretely, they are competent to impose safety measures and administrative measures in the framework of the following legislation:

- Act of 26 March 1971 on the protection of surface waters against pollution;
- Flemish Parliament Act of 23 December 2011 on the sustainable management of closed materials cycles and waste;
- Article 4 of the Flemish Parliament Act of 28 June 1985 on environmental licences: operation of a nuisance-causing plant without a licence;
- Article 22 of the Flemish Parliament Act of 28 June 1985 on environmental licences: operation of a Category 2 or 3 plant in contravention of the licensing requirements;
- Article 62 of the Flemish Parliament Act of 27 October 2006 on soil remediation and soil protection;
- Flemish Parliament Act of 22 December 2006 on the protection of water against agricultural nitrate pollution.

The second municipal actor - the municipal supervisor - was assigned, just like local police supervisors and supervisors of intermunicipal associations, to exercise supervision over:

- Flemish Parliament Act of 5 April 1995 containing general provisions on environmental policy: Title III – company-internal environmental care in relation to nuisance-causing plants classified into Categories 1, 2 and 3, as well as unclassified infringements in the open countryside;
- Act of 28 December 1964 on air pollution abatement in relation to nuisance-causing plants classified into Categories 1, 2 and 3, as well as unclassified infringements in the open countryside;
- Act of 26 March 1971 on the protection of surface waters against pollution, waste water discharges and the detection of any kind of pollution in relation to nuisance-causing plants classified into Categories 1, 2 and 3, as well as unclassified infringements in the open countryside;
- Act of 18 July 1973 on noise pollution abatement in relation to nuisance-causing plants classified into Categories 1, 2 and 3, as well as unclassified infringements in the open countryside;
- Flemish Government Decree of 7 November 1982, Article 2;
- Royal Decree of 24 February 1977 on electronically amplified music, Article 5;
- Flemish Parliament Act of 23 December 2011 on the sustainable management of closed materials cycles and waste and the relevant implementing orders regarding nuisance-causing plants classified into Categories 1, 2 and 3, as well as unclassified infringements in the open countryside;

- Flemish Parliament Act of 24 January 1984 containing measures with regard to groundwater management in relation to nuisance-causing plants classified into Categories 1, 2 and 3, as well as unclassified infringements in the open countryside;
- Flemish Parliament Act of 28 June 1985 on environmental licences in relation to nuisance-causing plants classified into Categories 2 and 3, as well as unclassified infringements in the open countryside;
- Flemish Parliament Act of 22 December 2006 on the protection of water against agricultural nitrate pollution;
- Regulation (EC) No 2037/2000 of the European Parliament and of the Council of 29 June 2000 on substances that deplete the ozone layer in relation to nuisance-causing plants classified into Categories 2 and 3, as well as unclassified infringements in the open countryside;
- Regulation (EC) No 1774/2002 of the European Parliament and of the Council of 3 October 2002 laying down health rules concerning animal by-products not intended for human consumption in relation to nuisance-causing plants classified into Categories 2 and 3, as well as unclassified infringements in the open countryside;
- Regulation (EC) No 850/2004 of the European Parliament and of the Council of 29 April 2004 on persistent organic pollutants and amending Directive 79/117/EEC in relation to nuisance-causing plants classified into Categories 2 and 3, as well as unclassified infringements in the open countryside;
- Regulation (EC) No 1013/2006 of the European Parliament and of the Council of 14 June 2006 on shipments of waste in relation to nuisance-causing plants classified into Categories 2 and 3, as well as unclassified infringements in the open countryside.

In addition to the aforementioned competences, Article 34 of the Decree of 12 December 2008 implementing Title XVI of the Flemish Parliament Act of 5 April 1995 containing general provisions on environmental policy also assigns a supervisory duty to the municipal supervisor to identify infractions in relation to plants classified into Category 1 according to Appendix 1 to Title 1 of Vlare – within the framework of the above-mentioned laws, acts and regulations – based on sensory perceptions, and to conduct investigations in the sense of Article 16.3.14 of the Environmental Enforcement Act.

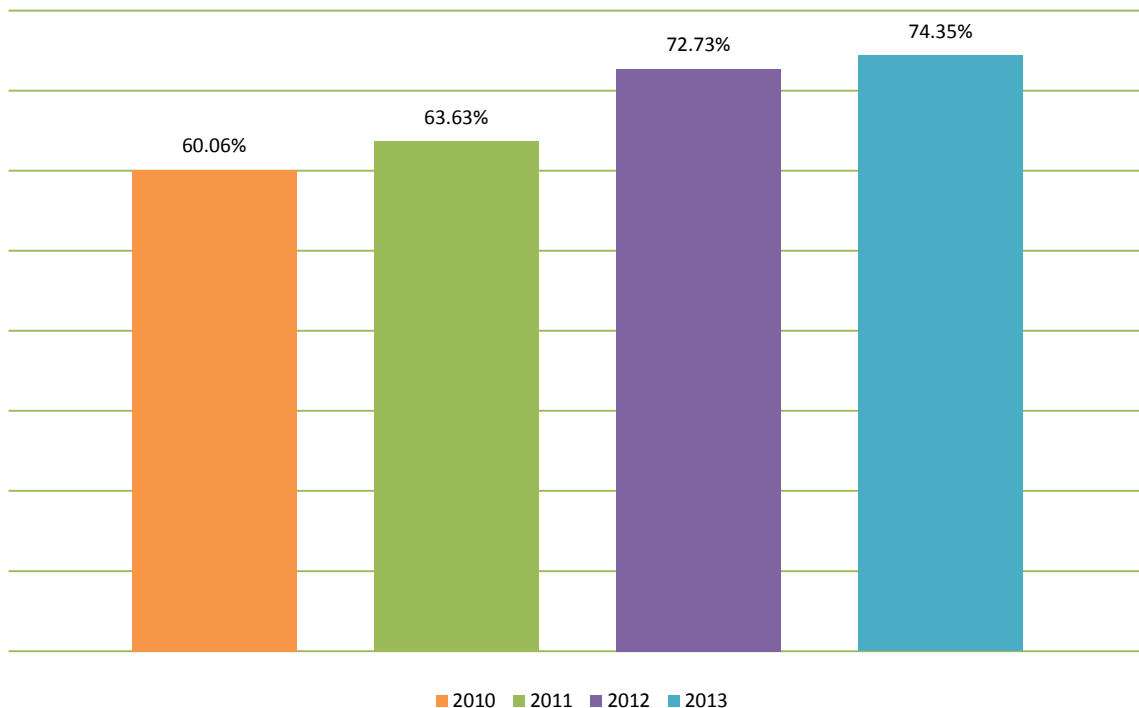
2.3.5 Mayors

The mayors were asked to report on their activities within the framework of the imposition of administrative measures and safety measures.

Response

The Flemish High Council of Environmental Enforcement received a response from 229 mayors in the Flemish Region (on a total of 308). The graph below reflects the response rate in the period 2010-2013³⁷.

³⁷ For the 2009 Environmental Enforcement Report the mayors had not yet been asked about their activities within the scope of the Environmental Enforcement Act.



Graph 23 Response from mayors

As appears from the above graph, the response rate has increased over the past years. Since 2010, this increase has amounted to 24%. The fact that the response rate increases each year is positive, since it allows for a clearer picture to be given of the different aspects of the environmental enforcement landscape.

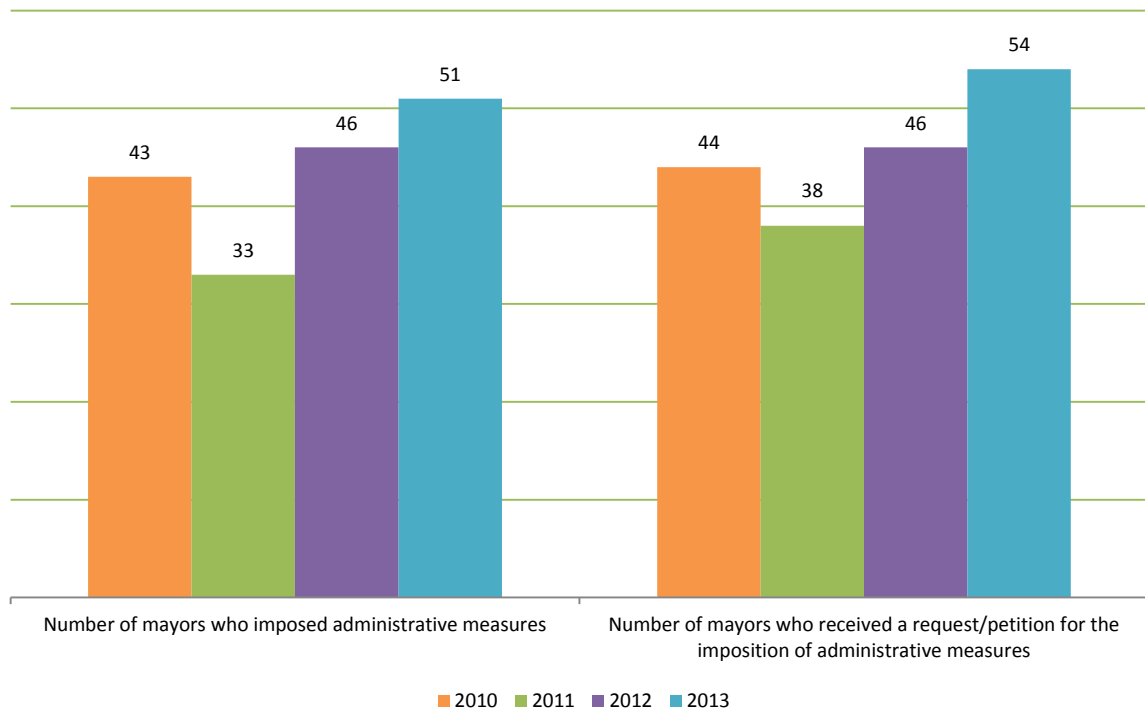
Administrative measures

As indicated earlier, the mayors in the Flemish Region have the authority to impose administrative measures. This authority can be exercised following a relevant request or petition. However, the mayors can also take administrative measures by virtue of their office.

'Requests for the imposition of administrative measures' are to be understood as any requests to impose administrative measures from regional supervisors, municipal supervisors, local police supervisors, provincial governors...to the people as referred to in Article 16.4.6 of the Environmental Enforcement Act who are authorised to take administrative measures, such as the mayor.

Moreover, administrative measures can be the subject of a petition for imposition by people who suffer direct loss as a result of an environmental infringement or environmental offence, people who have an interest in this environmental infringement or environmental offence being controlled, and legal persons as referred to in the Act on a right of action with regard to the protection of the environment.

The following graph gives an overview of the number of responding mayors who received a request/petition to impose administrative measures and the number of responding mayors who actually imposed an administrative measure in the period 2010-2013.

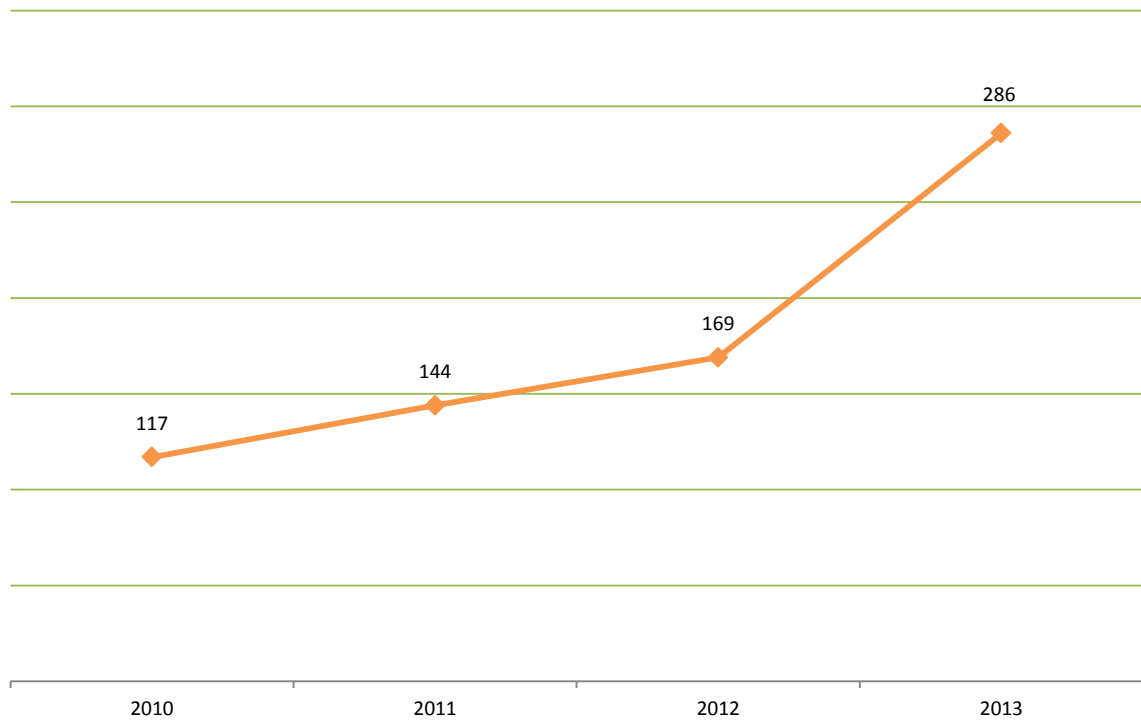


Graph 24 Number of mayors who received a request/petition for the imposition of an administrative measure and number of mayors who imposed administrative measures

Despite the 2011 decrease, it can be established that both the number of mayors who received a request/petition for the imposition of an administrative measure and the number of mayors who actually imposed an administrative measure increased over the past years. This decrease amounts to 23% and 19% respectively.

Over the period 2010-2013, on average 1/5 (21.5%) of the responding mayors received a request/petition for the imposition of administrative measures and 1/5 (20.75%) of the responding mayors imposed an administrative measure.

The following graph lists the number of requests/petitions which the mayors received over the period 2010-2013.



Graph 25 Number of requests/petitions to the mayors for the imposition of administrative measures

In the studied period a strong increase could be observed in the number of requests/petitions which the mayors received each year. A 144% increase can be recorded compared to 2010.

The following table gives an overview of the number of requests which the mayors received over the period 2010-2013 from the different enforcement actors and the number of petitions for the imposition of administrative measures that were submitted to the mayors.

Mayor of a city or municipality with a population of:	Administrative measures																														
	Request/petitions received by the mayor regarding the imposition of administrative measures																														
	Regional supervisors				Municipal supervisors				Intermunicipal association				Police district supervisors				Provincial supervisors				Requests made by third parties				Total						
	2010	2011	2012	2013	2010	2011	2012	2013	2010	2011	2012	2013	2010	2011	2012	2013	2010	2011	2012	2013	2010	2011	2012	2013	2010	2011	2012	2013	2010	2011	2012
≤ 4,999	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	0	0	1	0	0	0	2	0	0	0	0	3	1	0		
5,000 – 9,999	1	5	2	9	1	0	4	9	0	0	1	0	1	0	3	3	1	1	1	0	14	4	12	26	18	10	23	47			
10,000 – 14,999	3	2	5	6	16	2	4	10	0	9	5	11	3	2	7	15	0	2	2	0	13	29	43	79	35	46	66	121			
15,000 – 19,999	3	4	5	1	4	5	5	6	0	0	1	0	0	3	2	1	0	2	0	0	10	8	5	8	17	22	18	16			
20,000 – 24,999	1	0	0	1	1	0	4	6	5	1	0	0	0	0	0	2	0	0	0	0	11	1	12	27	18	2	16	36			
25,000 – 29,999	0	1	2	4	0	1	7	10	0	20	0	0	0	0	16	20	0	0	0	0	0	0	5	14	0	22	30	48			
30,000 – 74,999	4	1	0	0	5	0	11	11	0	11	0	0	8	20	1	0	3	0	0	2	8	1	3	3	28	33	15	16			
≥ 75,000	0	0	0	0	0	0	0	2	0	0	0	0	1	2	0	0	0	1	0	0	0	3	0	0	1	6	0	2			
Total	12	13	14	21	27	8	35	54	5	41	7	11	13	27	30	41	4	7	3	2	56	48	80	157	117	144	169	286			

Table 6 Number of requests/petitions to the mayors for the imposition of administrative measures by requesting/petitioning party

Over the period 2010-2013 the mayors received a total of 716 requests/petitions for the imposition of administrative measures. More specifically it can be established that 8% originated from regional supervisors, 9% from supervisors of intermunicipal associations, 2% from provincial supervisors, 16% from local police supervisors, 17% from municipal supervisors and 48% from third parties. The mayors of the Flemish cities and municipalities were not only asked about the number of petitions and requests for the imposition of administrative measures they received, but also about how many and which types of administrative measures they actually imposed in that year.

The administrative measures that may be imposed are:

- Prohibition order: This is an order from the authorised supervisor to the suspected offender to end certain activities, works, or the use of objects.
- Regularisation order: This is an order from the authorised supervisor to the suspected offender to take certain measures to end the environmental infringement or environmental offence, reverse its consequences, or prevent its repetition.
- Administrative enforcement: In this case the authorised supervisor takes actual action against the identified environmental infringement or environmental offence.
- Or a combination of these measures.

The following graph gives an overview of the number of administrative measures imposed by the mayors during the period 2010-2013.



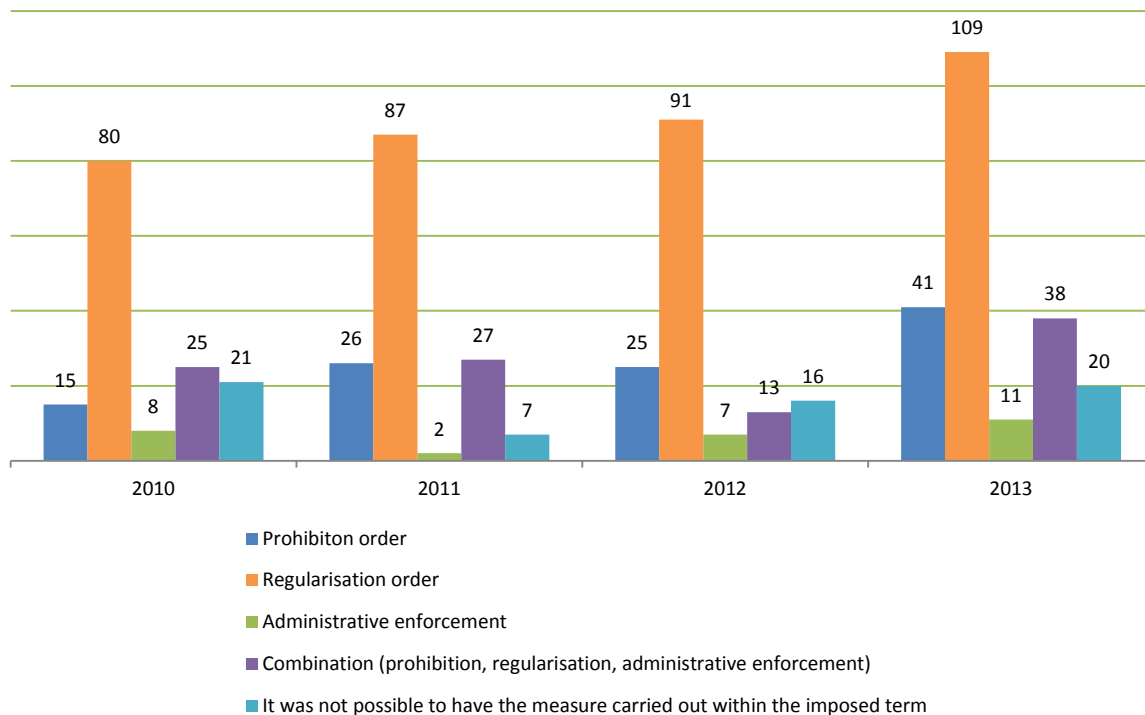
Graph 26 Total number of administrative measures imposed by mayors

Just like the increase in the number of requests/petitions for the imposition of administrative measures over the period 2010-2013, it can be deduced from the above graph that the number of administrative measures imposed by the mayors strongly increased during that period. This increase amounts to 55%.

In addition, it can also be concluded that the mayors did not comply with every request or petition for the imposition of administrative measures. In 2013, for instance, 286 requests/petitions for the imposition of

administrative measures were made, whereas a total of only 199 administrative measures were imposed. Taking account of the fact that the mayors can also impose administrative measures at their own initiative, at least 87 requests/petitions were not complied with.

The table and graph below give an overview of the types of administrative measures that were imposed by the mayors in the period 2010-2013 and the number of these imposed administrative measures that were not implemented within the imposed term.



Graph 27 Types of administrative measures imposed by mayors

In total, 605 administrative measures were imposed by the mayors in the Flemish Region. Most of the administrative measures, viz. 61%, were regularisation orders. In 18% of the cases it concerned a prohibition order. The administrative measure which is imposed the least (4% of the cases) is the administrative enforcement. A combination of administrative measures was imposed in 17% of the total number of imposed administrative measures.

It can also be deduced from the above graph that 64 measures, or 11%, were not implemented within the imposed term.

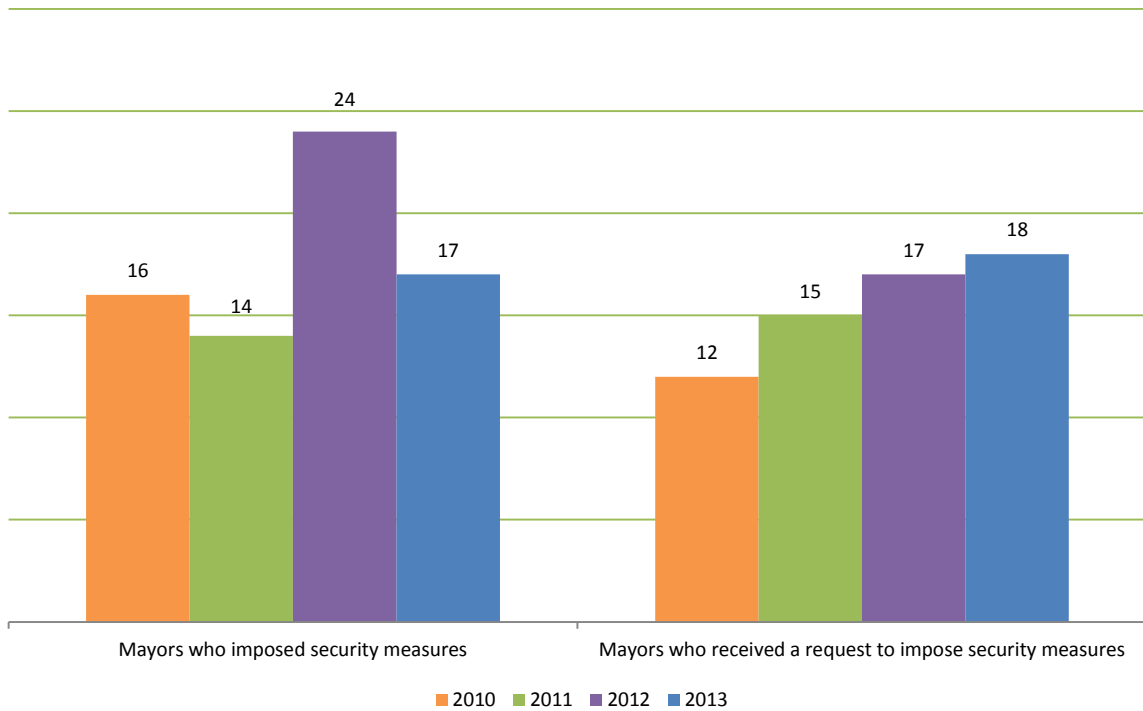
Safety measures

Apart from imposing administrative measures, the mayors are also authorised to impose safety measures. Safety measures are measures through which the persons, mentioned in Article 16.4.6, such as the mayor, can take or impose any actions they consider necessary under the given circumstances to eliminate, reduce to an acceptable level or stabilise a substantial risk to people or the environment. Safety measures can be aimed at the following situations, among other things (Article 16.7.2 of the Environmental Enforcement Act):

- the suspension or execution of works, actions or activities, immediately or within a given term;

- the prohibition of the use or the sealing of buildings, installations, machines, equipment, means of transport, containers, premises, and everything therein or thereon;
- the complete or partial closure of a plant;
- the seizure, storage or removal of relevant objects, including waste and animals;
- no entry to or leaving of certain areas, grounds, buildings, or roads.

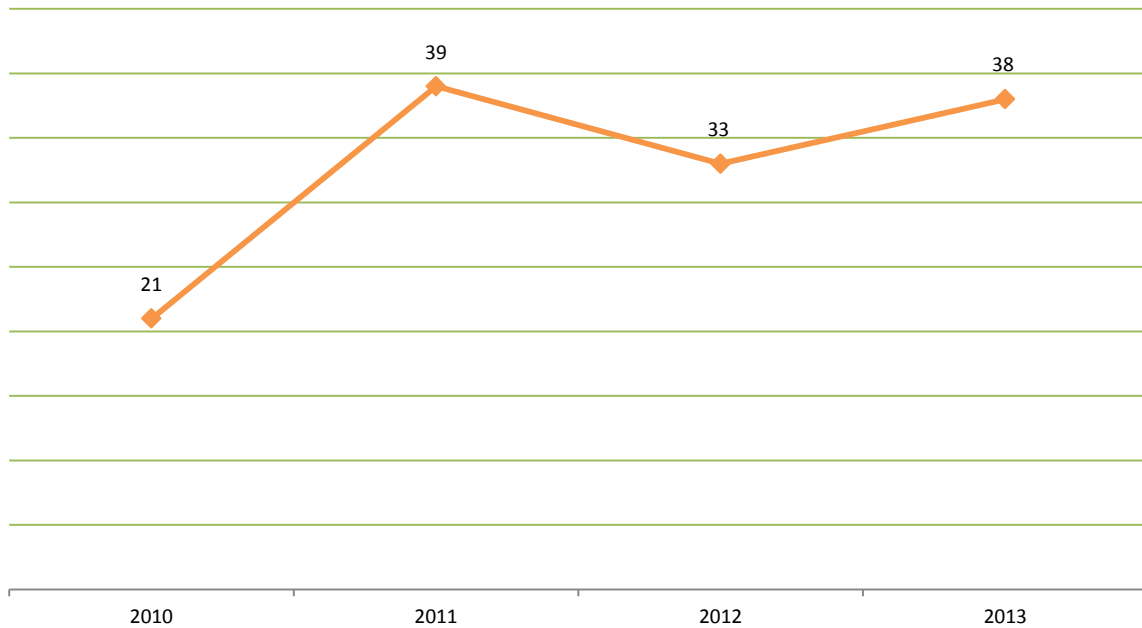
The graph below gives an overview of the number of responding mayors who received a request for the imposition of safety measures in the period 2010-2013 and the number of mayors who actually imposed a safety measure, either on the basis of a request or at their own initiative.



Graph 28 Number of mayors who received a request for the imposition of safety measures and number of mayors who imposed safety measures

The number of mayors who received a request for the imposition of a safety measure increased by 50%. This can possibly be linked to the higher response rate. On the other hand, the number of mayors who actually imposed a safety measure fluctuated during the studied period.

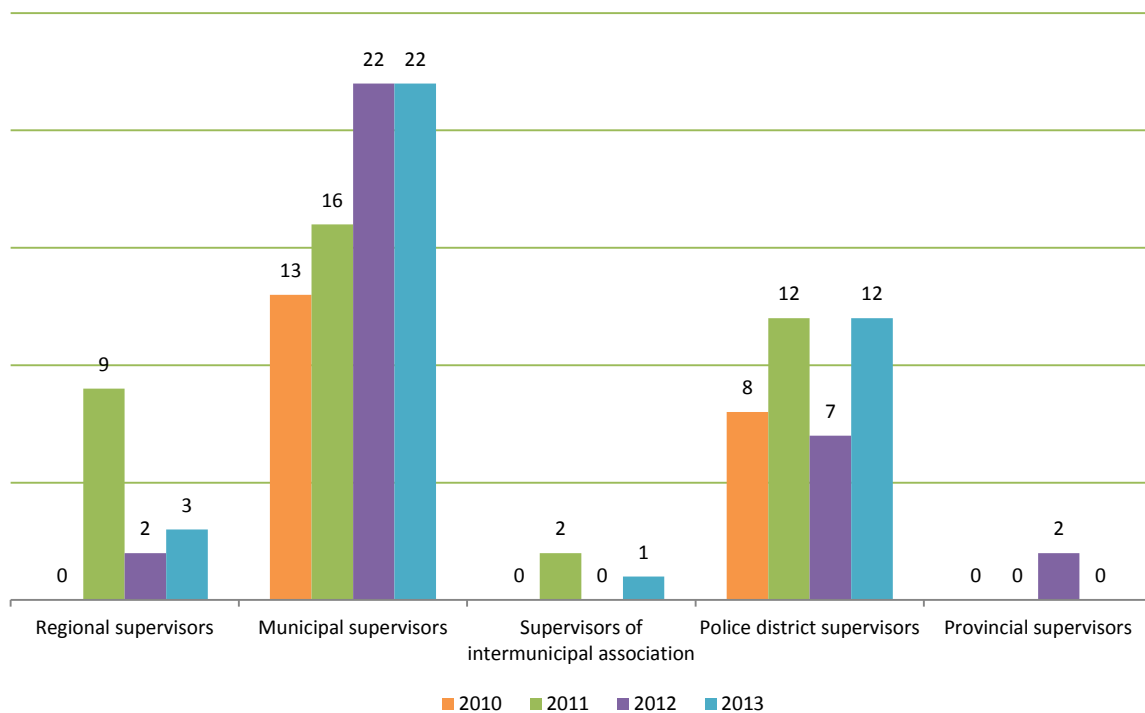
The graph below gives an overview of the number of requests for the imposition of a safety measure which the mayors received over the period 2010-2013.



Graph 29 Number of requests to the mayors for the imposition of safety measures

It can be established that the number of requests for the imposition of a safety measure fluctuated and increased. Compared to 2010, an increase of 81% could be recorded.

The table below gives an overview of the number of requests that were submitted to the mayors over the period 2010-2013 and indicates which supervisors submitted these requests.

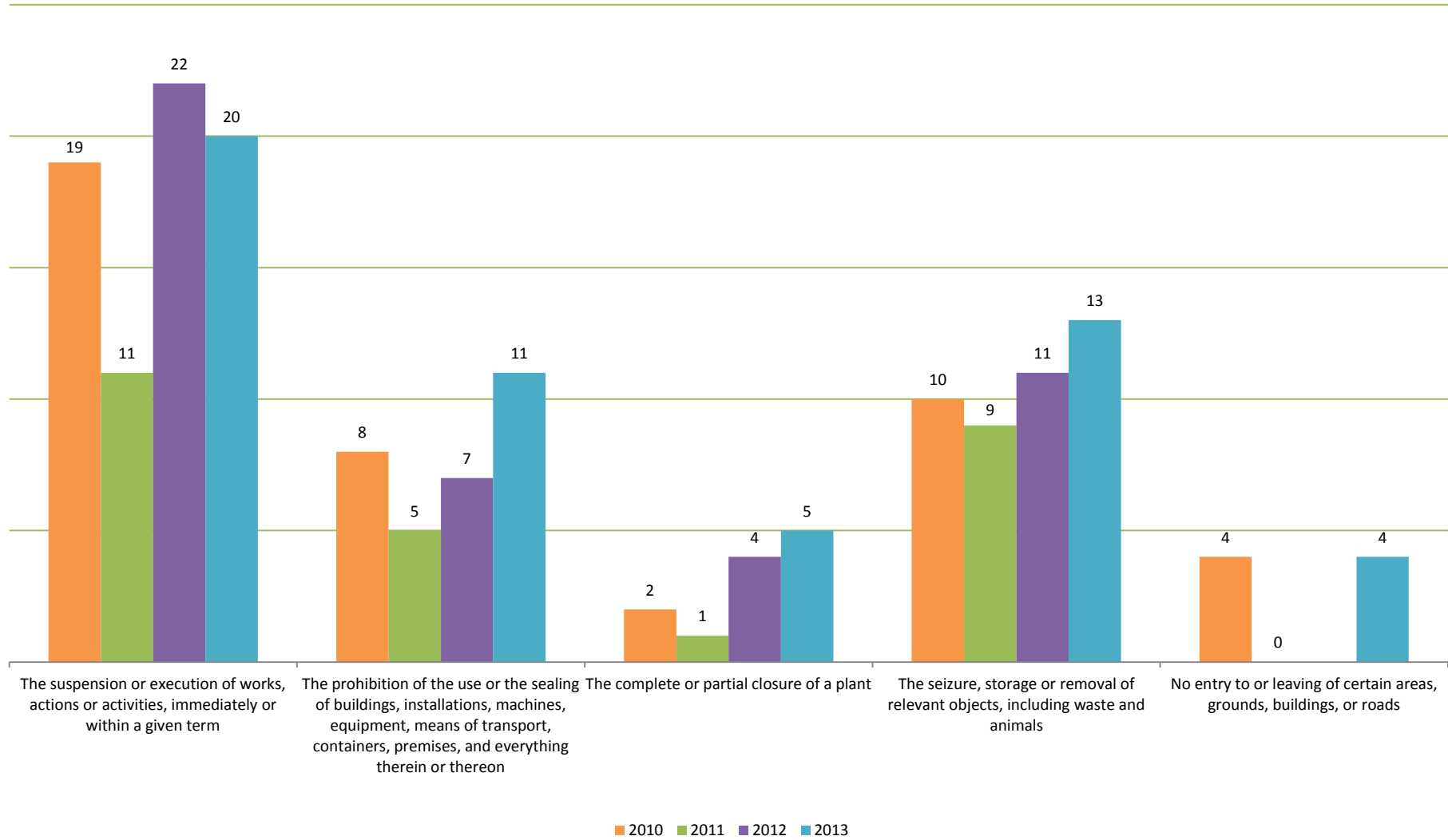


Graph 30 Number of requests to the mayors for the imposition of safety measures by requesting party

Most of the requests for the imposition of safety measures during the period 2010-2013, viz. 56% of the total of 131 requests, originated from municipal supervisors. Requests from local police supervisors amounted to 30% of the total number of requests received by the mayors.

The mayors of the Flemish cities and municipalities were not only asked to indicate how many requests for the imposition of safety measures they received, but also how many and which types of safety measures they actually imposed in that year.

The graph below gives an overview of the safety measures actually imposed by the mayors and of the types of safety measures that were imposed in the period 2010-2013.



Graph 31 Types of safety measures imposed by mayors

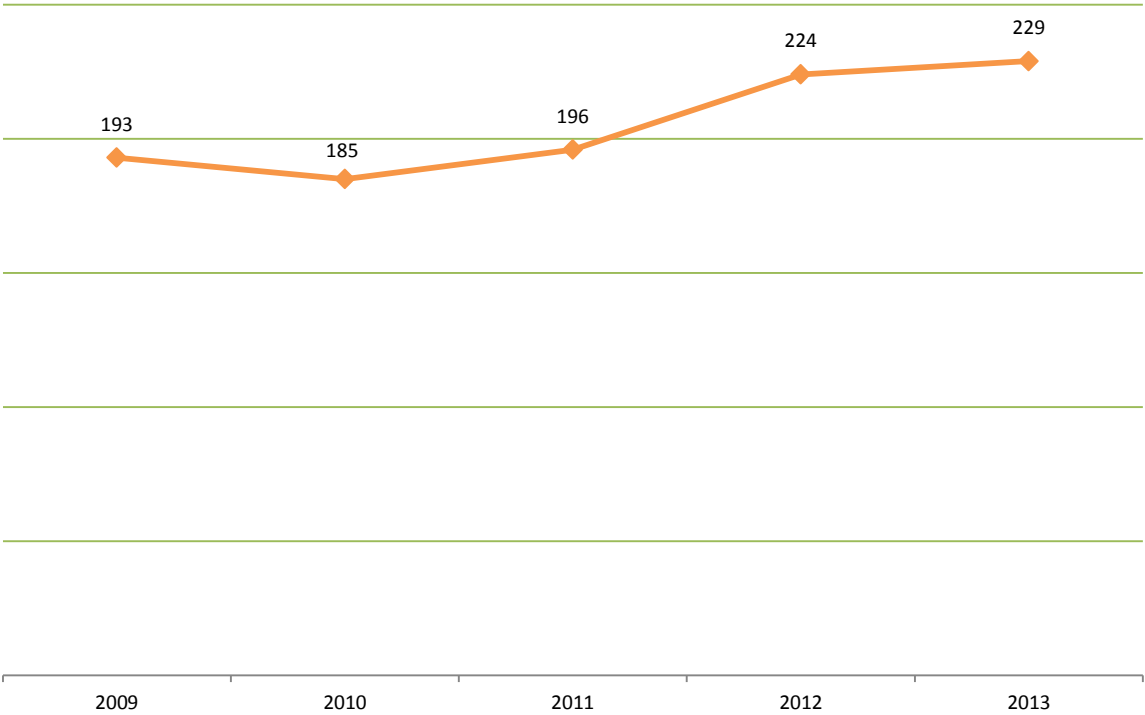
It can be deduced from the above graph that the responding mayors imposed a total of 166 safety measures over the period 2010-2013. This means that at least 21% of the total number of imposed safety measures were imposed at the mayor's own initiative.

Most of the safety measures, namely 43%, referred to the suspension or execution of works, actions or activities, immediately or within a given term. The seizure, storage or removal of relevant objects, including waste and animals accounted for 26% of the total number of safety measures.

2.3.6 Municipal supervisors

To obtain an insight into the organisation and efforts regarding local environmental enforcement the 308 Flemish cities and municipalities were asked via a questionnaire to provide information about the appointment of supervisors, the organisation of supervisory activities in the municipality, the number of environmental enforcement inspections carried out, as well as the result of these inspections. The results of the environmental enforcement inspections are discussed in Chapter 3 where an evaluation per enforcement instrument will provide an insight into this. This chapter tries to give a picture of the response from the municipalities to VHRM's questionnaire, of the number of Category 1, 2 and 3 nuisance-causing plants, the organisation of supervision in cities and municipalities, the number of appointed local supervisors, the appointment of supervisors and the amount of time they dedicate to supervisory duties, and the number of inspections carried out per category of municipality, per supervisor and per FTE during the period 2009-2013.

Response



Graph 32 Response from Flemish cities and municipalities

The above graph shows that - given that there are a total of 308 cities and municipalities in the Flemish Region - the response rate of the Flemish municipalities was on average more than 67% over the past five years. In addition, it can be established that the response rate has risen by 19% since 2009.

Naturally, this increase is a positive element. As a result of this, the data in the Environmental Enforcement Reports become increasingly representative and a more accurate picture can be given of all facets of the environmental enforcement landscape.

Nuisance-causing plants per municipality

Cities and municipalities were asked how many licenced plants falling into Categories 1, 2 and 3 in accordance with Appendix I to Title I of Vlarem are located on their territory, and at what number they estimated the total of unlicenced nuisance-causing plants in their city/municipality. The purpose of this question was to gain insight into the number of nuisance-causing plants per municipality, as this is essential to draw up a good inspection plan and to estimate and evaluate the efforts made in the field of environmental supervision. In addition, the number of nuisance-causing plants falling into Category 2 is used as criterion to determine how many supervisors a municipality should have at its disposal. In order to avoid any confusion, the term 'unlicenced nuisance-causing plant' was defined as follows: These are plants that could be classified, on the basis of Vlarem, as Category 1, 2 or 3 plants, but have not yet been licenced as such.

Therefore, the table below shows the total number of Category 1, 2 and 3 nuisance-causing plants in the period 2009-2013, as well as the estimated number of unlicenced nuisance-causing plants. The table also gives the average number of nuisance-causing plants per category and the number of municipalities that have no clear information on the number of nuisance-causing and unlicenced plants on their territory.

Year	Number of respondents	Category 1 plants in 2013			Category 2 plants in 2013			Category 3 plants in 2013			Unlicensed plants in 2013		
		Total number according to survey	Average number per municipality	Number of municipalities that have no information on number of category 1 plants	Total number according to survey	Average number per municipality	Number of municipalities that have no information on number of Category 2 plants	Total number according to survey	Average number per municipality	Number of municipalities that have no information on number of Category 3 plants	Total number according to survey	Average number per municipality	Number of municipalities which do not know the number of unlicensed plants or indicated that there were no unlicensed plants
2009	193	7,184	42.26	23	32,479	191.05	23	90	558.99	32	4,056	66.49	132
2010	185	10,396	60.44	13	38,608	221.89	11	115	684.36	17	2,223	21.58	82
2011	196	15,749	86.53	11	40,317	216.75	10	116,732	637.87	13	3,245	51.5	133
2012	224	16,783	79.17	12	44,999	212.26	12	104,579	505.21	17	3,312	39.9	141
2013	229	16,297	75.45	13	50,908	234.6	12	141,215	678.92	21	3,829	45.58	145

Table 7 Category 1, 2 and 3 nuisance-causing plants

It is extremely important for cities and municipalities to have information on the number of plants on their territory, not only with a view to planning their own environmental enforcement efforts, but also to comply with the obligations laid down by Acts and decrees. As mentioned earlier, municipalities with more than three hundred Category 2 plants should have two supervisors at their disposal since 1 May 2011. This is further discussed within the framework of the '*number of appointed local supervisors*'.

The above table shows that the number of Category 1, 2 and 3 plants increased over the period 2009-2013. This increase is not just visible in the total numbers, which can naturally be linked to the growing response, but also in the average number of plants per municipality. On average the number of Category 1 plants amounted to 68 per municipality, the number of Category 2 plants to 215 per municipality and the number of Category 3 plants to 613 per municipality over the period 2009-2013.

In the period 2009-2013, an average of 7% of the responding municipalities indicated not knowing the number of Category 1 and 2 plants, and 10% indicated not knowing the number of Category 3 plants.

A striking element is that on average 79 of the responding municipalities, which comes down to 39%, indicated knowing about an average of 3,333 unlicensed plants on their territory in the period 2009-2013.

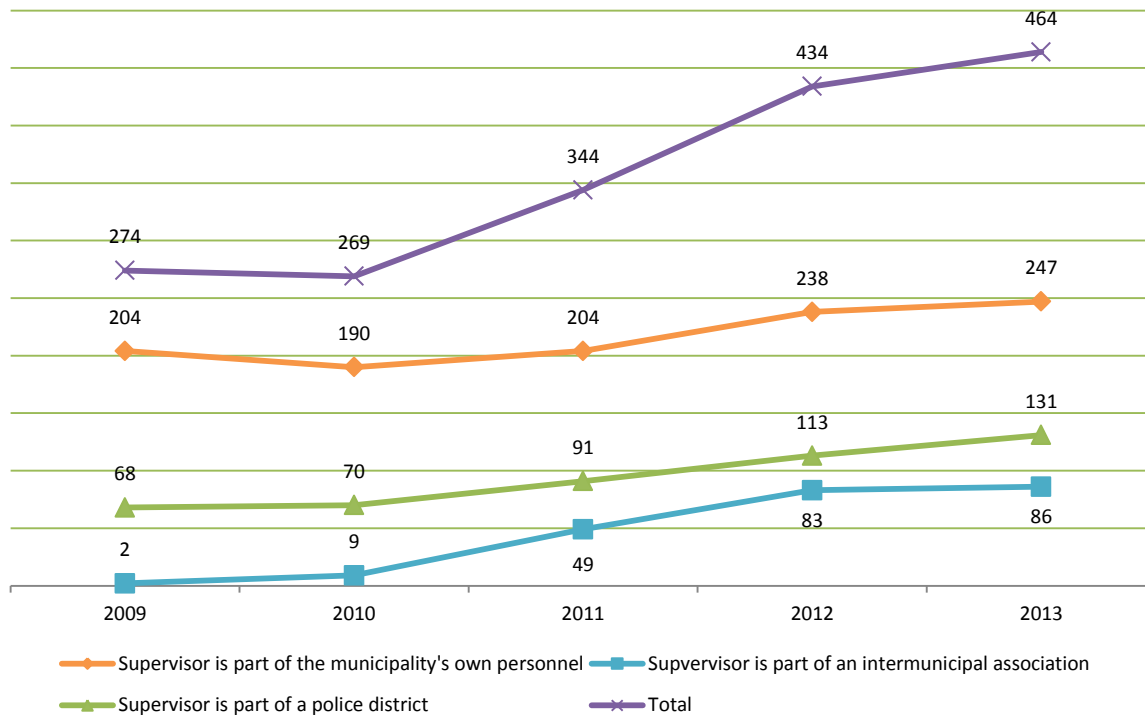
As indicated earlier, these are plants that could be classified, on the basis of Vlarem, as Category 1, 2 or 3 plants, but have not yet been licenced as such. This comes down to an average of no less than 45 nuisance-causing plants requiring a licence per municipality in the period 2009-2013 which are in fact not legitimately operated, since no licence was granted (yet) or no notification was done yet (Category 3 plants). Therefore, it seems very logic to recommend that these municipalities focus their enforcement on these unlicensed nuisance-causing plants. After all, these municipalities are aware of violations against environmental law and should therefore be expected to take relevant action.

On average 127 municipalities reported not knowing the number of unlicensed plants or not having any such plants on their territory during the period 2009-2013.

Organisation of local supervision

Article 16,§1 of the Decree of 12 December 2008 implementing Title XVI of the Flemish Parliament Act of 5 April 1995 containing general provisions on environmental policy stipulates that municipalities are required to have at least one supervisor at their disposal within one year after the coming into effect of the aforementioned Decree, which was on 1 May 2010. This can be either a municipal supervisor, or a supervisor of an intermunicipal association, or a police district supervisor. Within two years of the coming into effect of this Decree on 1 May 2011 municipalities with more than three hundred Category 2 plants in accordance with Title I of Vlarem, or with more than thirty thousand inhabitants if the number of plants is insufficiently known, are required to have two supervisors at their disposal. This can be either municipal supervisors, or supervisors of intermunicipal associations, or police district supervisors.

The graph below shows how the municipalities implemented the duties of local supervisor in the period 2009-2013: with their own personnel, or via an intermunicipal association or a police district. The figures below refer to the number of supervisors, not the number of municipalities.



Graph 33 Organisation of supervision at the municipal level

It can be deduced from the above graph that the total number of local supervisors has increased since the Environmental Enforcement Act entered into effect. This increase amounts to 69%. Most of the local supervisors are appointed within the municipality itself, namely on average 63% of the total number of supervisors appointed during the period 2009-2013. However, the percentage share of the supervisors appointed within the municipality itself decreases during this period and results in an increase in the number of supervisors appointed within the police district and the supervisors appointed within intermunicipal associations. Over the period 2009-2013, this share amounted on average to 26% and 11% respectively.

However, with regard to the data in the above table it should be remarked that double counts have been made in the total number of supervisors who were part of an intermunicipal association and the number of supervisors belonging to a police district. The responses are given by the individual municipalities. Since both police districts and intermunicipal associations (can) consist of several municipalities, several municipalities may have reported the same supervisors they had at their disposal in the period 2009-2013. As a result, the percentage share of the number of supervisors who were part of the municipality's own personnel will even be higher in reality, whereas the total number of appointed supervisors will be lower.

Number of appointed local supervisors

The collected data can be used to analyse to what extent the municipalities in the Flemish Region satisfied the provisions of the Environmental Enforcement Act with regard to the appointment of supervisors in 2013. Article 16 §1 of the Decree of 12 December 2008 implementing Title XVI of the Flemish Parliament Act of 5 April 1995 containing general provisions on environmental policy, in short the Environmental Enforcement Decree, indeed stipulates that municipalities are required to have at least 1 supervisor at their disposal within one year after the coming into effect of the aforementioned Decree, which was on 1 May 2010. This can be either a municipal supervisor or Vlare officer, or a supervisor or Vlare officer of an intermunicipal association, or a supervisor or Vlare officer of a police district. As of 1 May 2011, municipalities with more than three hundred Category 2 plants in accordance with Title I of Vlare or with more than thirty thousand

inhabitants if the number of plants is insufficiently known are at least required to have two supervisors at their disposal. This can be either municipal supervisors, or police district supervisors, or supervisors of intermunicipal associations.

The tables below show - using both the number of Category 2 nuisance-causing plants and the number of inhabitants - to what extent the municipalities had sufficient supervisors at their disposal in 2013.

Appointment of supervisors on the basis of the number of nuisance-causing plants	Number of municipalities		
	Without supervisors	With 1 supervisor	With 2 or more supervisors
> 300 Category 2 nuisance-causing plants	1	9	33
< 300 Category 2 nuisance-causing plants	3	81	90
No insight into number of nuisance-causing plants	2	6	4
Total	6	96	127

Table 8 Appointment of supervisors on the basis of the number of nuisance-causing plants

If the number of nuisance-causing plants is taken as the criterion for determining the number of supervisors which a municipality should have at its disposal - whether or not appointed within the municipality itself, through an intermunicipal association or within a police district - it can be concluded on the basis of the above table that at least 15 and at most 21 of the responding municipalities did not have sufficient supervisors at their disposal. This is minimum 6.55% and maximum 9.17% of the total number of responding municipalities.

If the number of Category 2 nuisance-causing plants is not precisely or insufficiently known, the number of supervisors which a municipality should have at its disposal can also be determined on the basis of the population. This situation is simulated in the table below. As soon as a municipality has more than 30.000 inhabitants, it should have at least 2 supervisors at its disposal.

Appointment of supervisors on the basis of number of nuisance-causing plants	Number of municipalities		
	Without supervisors	With 1 supervisor	With 2 or more supervisors
≤ 4,999	1	4	1
5,000 - 9,999	0	29	20
10,000 - 14,999	2	27	33
15,000 - 19,999	1	21	13
20,000 - 24,999	1	5	22
25,000 - 29,999	0	5	8
30,000 - 74,999	0	5	23
≥ 75,000	1	0	7
Total	6	96	127

Table 9 Appointment of supervisors on the basis of population

Just like in the previous table, it is apparent from the above table that 6 municipalities did not yet have a supervisor at their disposal in 2013. This is 2.62% of the total number of responding municipalities.

If the number of inhabitants is used as the criterion for determining the legally defined number of supervisors, all municipalities with more than 30,000 inhabitants should have at least 2 supervisors at their disposal. The

above table indicates that within the two largest categories (the municipalities with more than 30,000 inhabitants), 5 municipalities had only one supervisor at their disposal and 1 municipality had no supervisors at its disposal in 2013. This means that, in 2013, 17% of the municipalities with more than 30,000 inhabitants did not yet meet the provision that at least 2 supervisors must be available.

In addition, it can be established that in 5 other municipalities (in the categories of municipalities with fewer than 30,000 inhabitants) no supervisor was available yet either. As a result, a total of 11 municipalities did not yet satisfy the provisions of the Environmental Enforcement Act in 2013, which comes down to 5% of the total number of responding municipalities.

Appointment of municipal supervisors and amount of time dedicated

The municipalities and cities in the Flemish Region were asked to report whether the municipality had a supervisor at its disposal and how many supervisors, if any, were appointed within the municipality itself, within the police district or within an intermunicipal association. This has already been discussed in the previous section. It was also asked how many supervisors were appointed within the municipality itself, how many FTEs these supervisors dedicated to environmental enforcement duties and how many FTEs were dedicated within the municipality itself to the administrative support of environmental enforcement duties by non-supervisors.

The table below gives an overview for the period 2010-2013³⁸.

	2010	2011	2012	2013
Reponse	185	196	224	229
Municipality with appointed supervisor	170	146	216	223
Municipality without appointed supervisor	15	50	216	6
Number of appointed supervisors	269	204	238	247
Total time dedicated to environmental enforcement (FTEs)	64.17	60.26	67.95	57.15

Table 10 Appointment of municipal supervisors and amount of time dedicated by them

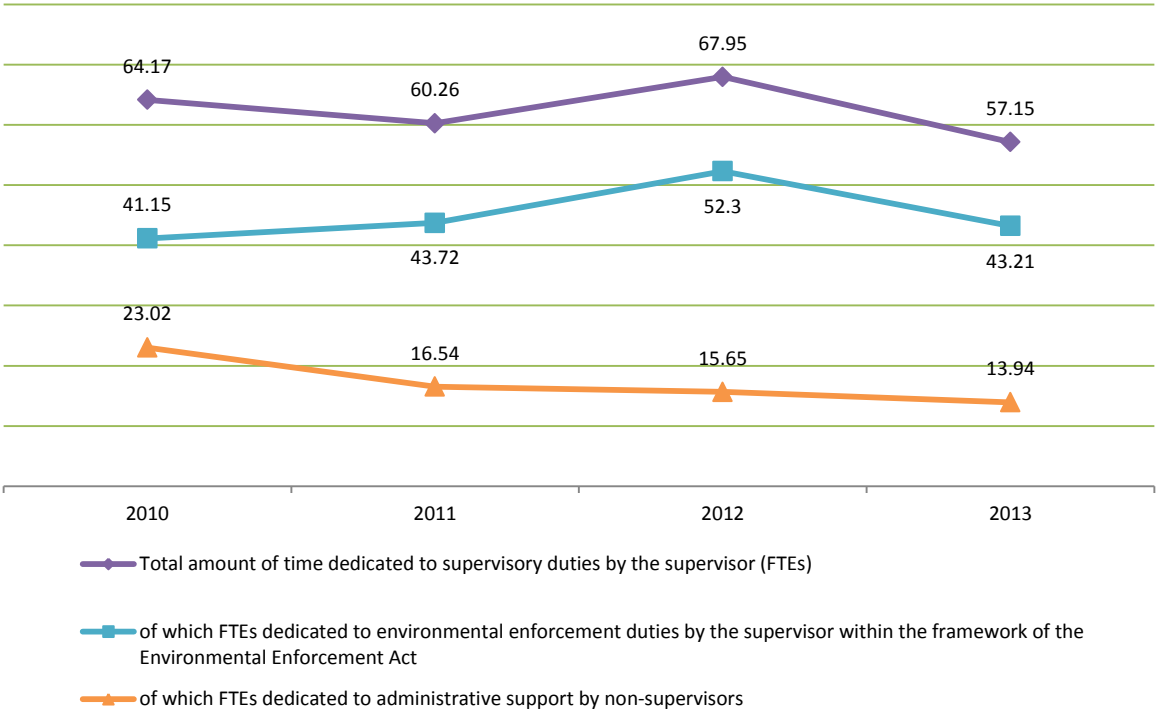
The above table shows that the number of municipalities with an appointed supervisor has generally grown by 31% since 2010. In combination therewith a decrease can be recorded in the number of municipalities without an appointed supervisor.

The remarkable thing - compared to the increase in the number of municipalities that appointed a supervisor within the municipality itself - is the decrease in the number of appointed municipal supervisors since 2010. Despite the fact that the number is subject to fluctuations over the period 2010-2013, an 8% decrease can be recorded.

Not only did the number of municipal supervisors fall in the period 2010-2013, but so did the total amount of time dedicated by these supervisors. When looking at the period 2012-2013, an increase in the total number of supervisors can be recorded. The total amount of time dedicated, however, decreased by more than 10 FTEs.

³⁸ Given the fact that for the 2009 Environmental Enforcement Report the municipalities were asked whether they had a supervisor at their disposal and how much time this supervisor dedicated, without specifying whether this supervisor had been appointed within the municipality, within an intermunicipal association or within the police district, the data from the 2009 Environmental Enforcement Report are not reflected in this overview.

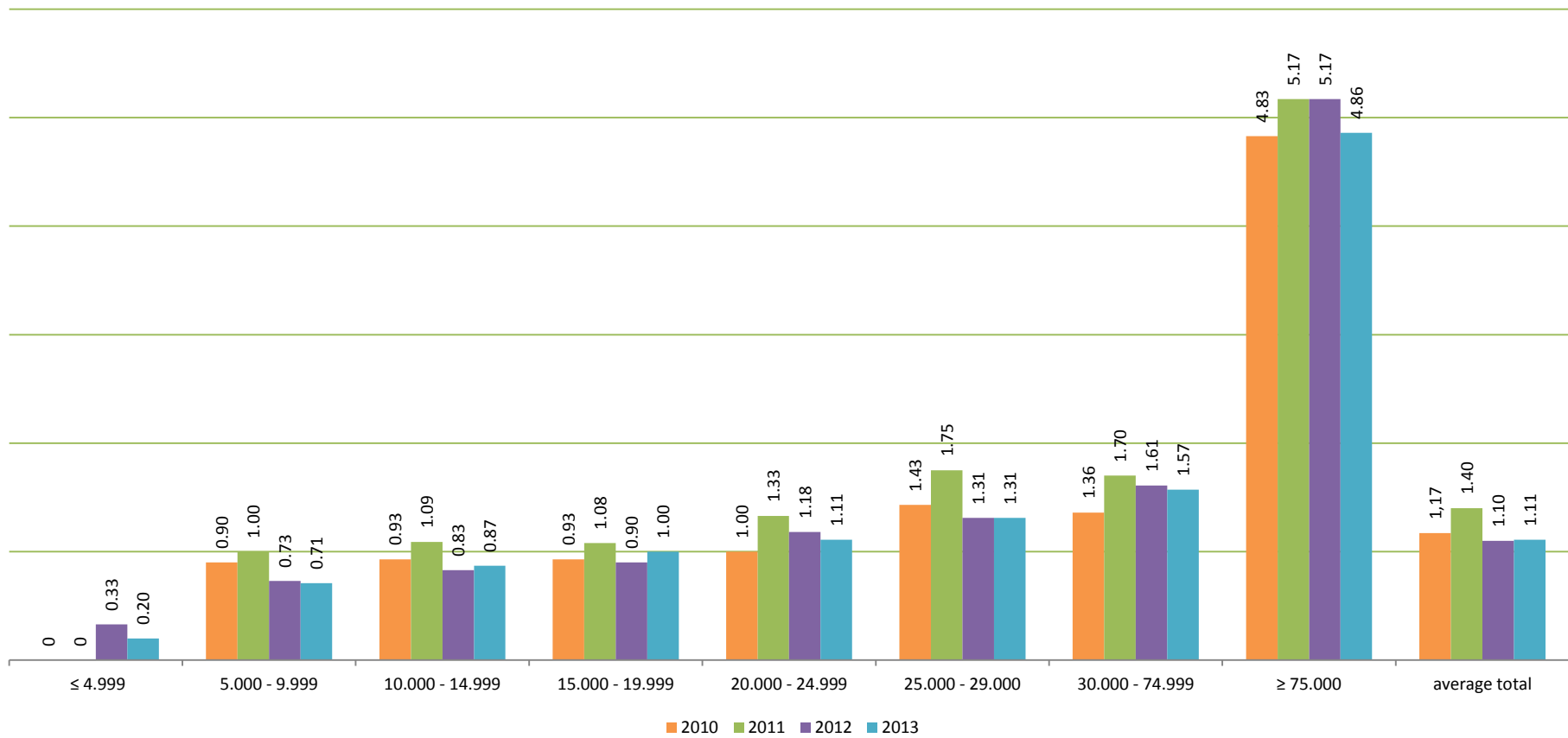
The graph below gives an overview of the total amount of time dedicated to environmental enforcement duties in the municipalities during the period 2010-2013, and the breakdown thereof into the total number of FTEs dedicated to environmental enforcement duties by supervisors within the scope of the Environmental Enforcement Act and the total number of FTEs dedicated to the administrative support of environmental enforcement duties by non-supervisors.



Graph 34 Number of FTEs dedicated to environmental enforcement duties and number of FTEs dedicated to administrative support

The graph above shows that the majority of the total number of FTEs dedicated to environmental enforcement duties were dedicated to environmental enforcement duties by supervisors, and to a lesser extent to administrative support by non-supervisors. This is an average ratio of 72% and 18% respectively during the period 2010-2013.

The graph below gives an overview of the average number of supervisors per municipality over the period 2010-2013 per category of municipality (broken down by population).



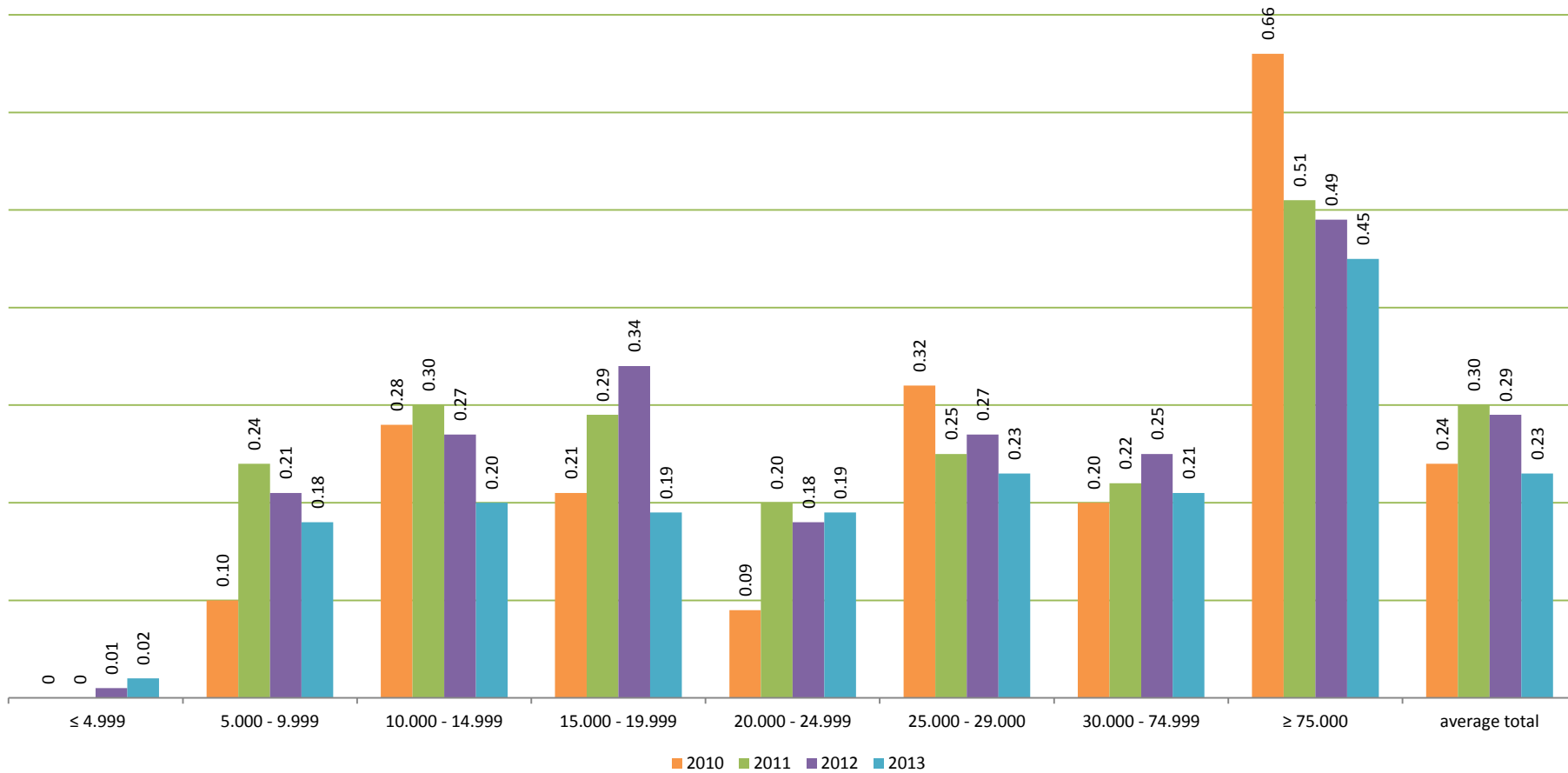
Graph 35 Average number of supervisors per municipality

The above graph shows that the average number of supervisors per municipality remained fairly stable during the period 2010-2013. During the 2010-2013 period, the average number of supervisors per municipality amounted to 1.2 in general.

More than in the police districts, the population factor is important for the average number of supervisors per municipality. In the category of municipalities with fewer than 4,999 inhabitants the average number of supervisors per municipality amounted in general to 0.13 during the period 2010-2013. For the category of municipalities with 5,000 to 9,999 inhabitants this was 0.83. For the category of municipalities with 10,000 to 14,999 inhabitants and the category of municipalities with 15,000 to 19,999 inhabitants this was on average respectively 0.93 and 0.98 supervisors per municipality. For the category of municipalities with 20,000 to 24,999 inhabitants and the category of municipalities with 25,000 to 29,999 inhabitants this was on average 1.06 and 1.45 supervisors per municipality. In the category of municipalities with 30,000 to 74,999 inhabitants an average number of supervisors of 1.56 can be recorded per municipality. In the largest category this number even amounted to 5 supervisors on average per municipality. It can be concluded that the population - and thus the size of the municipality - has an impact on the number of supervisors appointed within the municipality.

The next graph gives an overview of the average amount of time dedicated to environmental enforcement duties³⁹ per supervisor during the period 2010-2013, broken down by category of municipalities.

³⁹ The average amount of time dedicated per supervisor is the total number of indicated FTEs dedicated to environmental enforcement duties per police district category, divided by the total number of indicated appointed supervisors per police district category.



Graph 36 Average amount of time dedicated to environmental enforcement duties per municipal supervisor

Despite the fact that the average number of supervisors per municipality remained fairly stable, the average amount of time dedicated by municipal supervisors decreased in the period 2010-2013. This decrease is mainly visible in 2013 compared to 2012 and 2011. Over the period 2010-2013, the average amount of time dedicated by the municipal supervisors amounted to 0.27 FTEs. This means that the average municipal supervisor is used for just over 1/4 FTE for the implementation of environmental enforcement duties within the scope of the Environmental Enforcement Act. Since an average of 1.2 supervisors were available per municipality with an appointed supervisor over the period 2010-2013, an average amount of time⁴⁰ of 0.32 FTEs dedicated to enforcement duties can be calculated in those municipalities that appointed a supervisor.

Whereas the size of the municipality still had an impact on the average number of appointed supervisors, it can be concluded from the graph above that this has no bearing on the average amount of time dedicated by these supervisors. Only for the largest category of municipalities with more than 75,000 inhabitants can it be established that the average amount of time dedicated by the municipal supervisors largely exceeds the average. In the period 2010-2013 this amount of time amounted to 0.53 FTEs on average per supervisor. This means that in these municipalities the supervisors are on average engaged part-time in environmental enforcement duties. The amount of time dedicated to environmental enforcement duties in this category amounts in general to 2.65 FTEs in those municipalities that had appointed a supervisor. However, in the other categories of municipalities size is not a decisive factor. In the category of municipalities with fewer than 4,999 inhabitants the average amount of time dedicated generally amounted 0.00098 FTEs in the period 2010-2013. For the category of municipalities with 5,000 to 9,999 inhabitants this was 0.15 FTEs. For the category of municipalities with 10,000 to 14,999 inhabitants and the category of municipalities with 15,000 to 19,999 inhabitants this amounted to 0.98 FTEs and 0.25 FTEs respectively. For the category of municipalities with 20,000 to 24,999 inhabitants and the category of municipalities with 25,000 to 29,999 inhabitants the amount of time dedicated was on average 0.70 and 2.57 FTEs respectively. In the category of municipalities with 30,000 to 74,999 inhabitants an average amount of time dedicated of 1.37 FTEs can be recorded in the municipality over the period 2010-2013.

In order to gain an insight into the activities of the municipal supervisors over the period 2010-2013, the table below reflects the total number of environmental enforcement inspections that were carried out each year within the scope of the Environmental Enforcement Act.

	Response	Total number of supervisors appointed by municipality	Total environmental enforcement inspections carried out
2010	185	269	5.649
2011	196	204	4.740
2012	224	238	4.748
2013	229	247	4.657

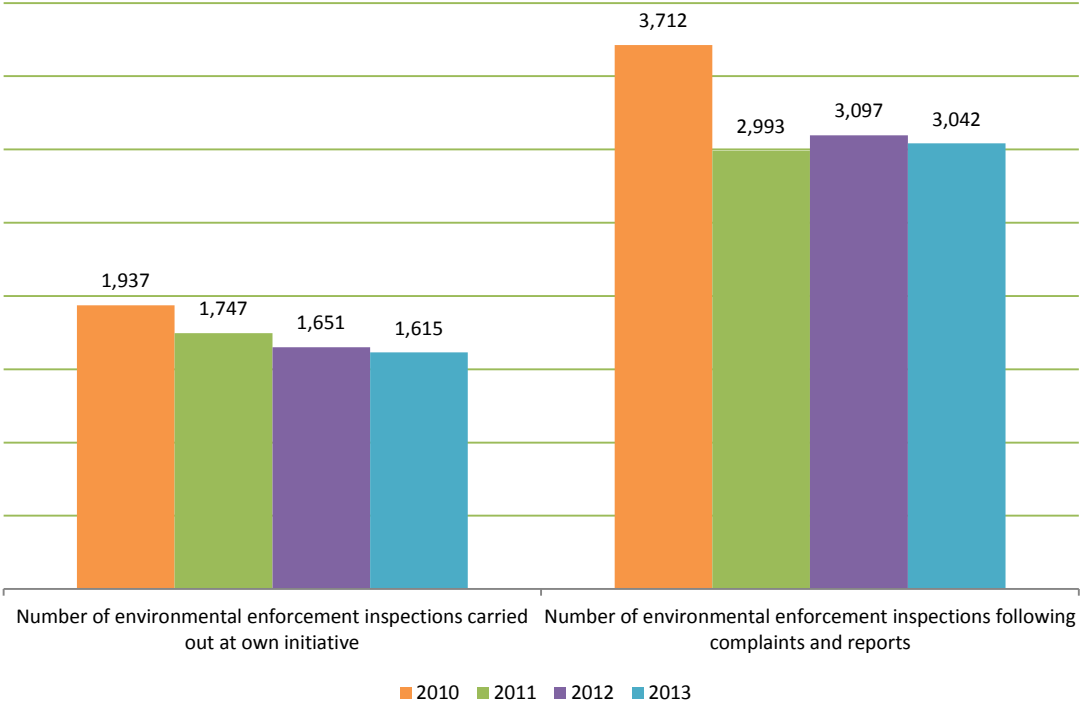
Table 11 Activities of municipal supervisors

Despite the fact that the number of municipal supervisors increased since 2011, the total number of implemented environmental enforcement inspections decreased during the studied period. This can be explained by the decrease in the average amount of time dedicated by municipal supervisors over the period 2010-2013.

⁴⁰ This amount of time dedicated is calculated by multiplying the average amount of time each supervisor dedicates to supervisory duties by the average number of supervisors per police district (which also actually appointed a supervisor). In this way a picture can be given of the average number of FTEs that are dedicated to environmental enforcement duties within a police district that actually appointed one or more supervisors..

Compared to the 2010 data an 8% decrease can be observed in the number of supervisors, a 4% decrease in the average amount of time dedicated, and an 18% decrease in the number of performed environmental enforcement inspections. This shows that the number of performed inspections does not decrease proportionally but instead more strongly than the decrease in the number of appointed supervisors and the decrease in the number of FTEs dedicated to environmental enforcement duties. It could for instance be deduced from this that the inspections that are carried out are more complex and require more time.

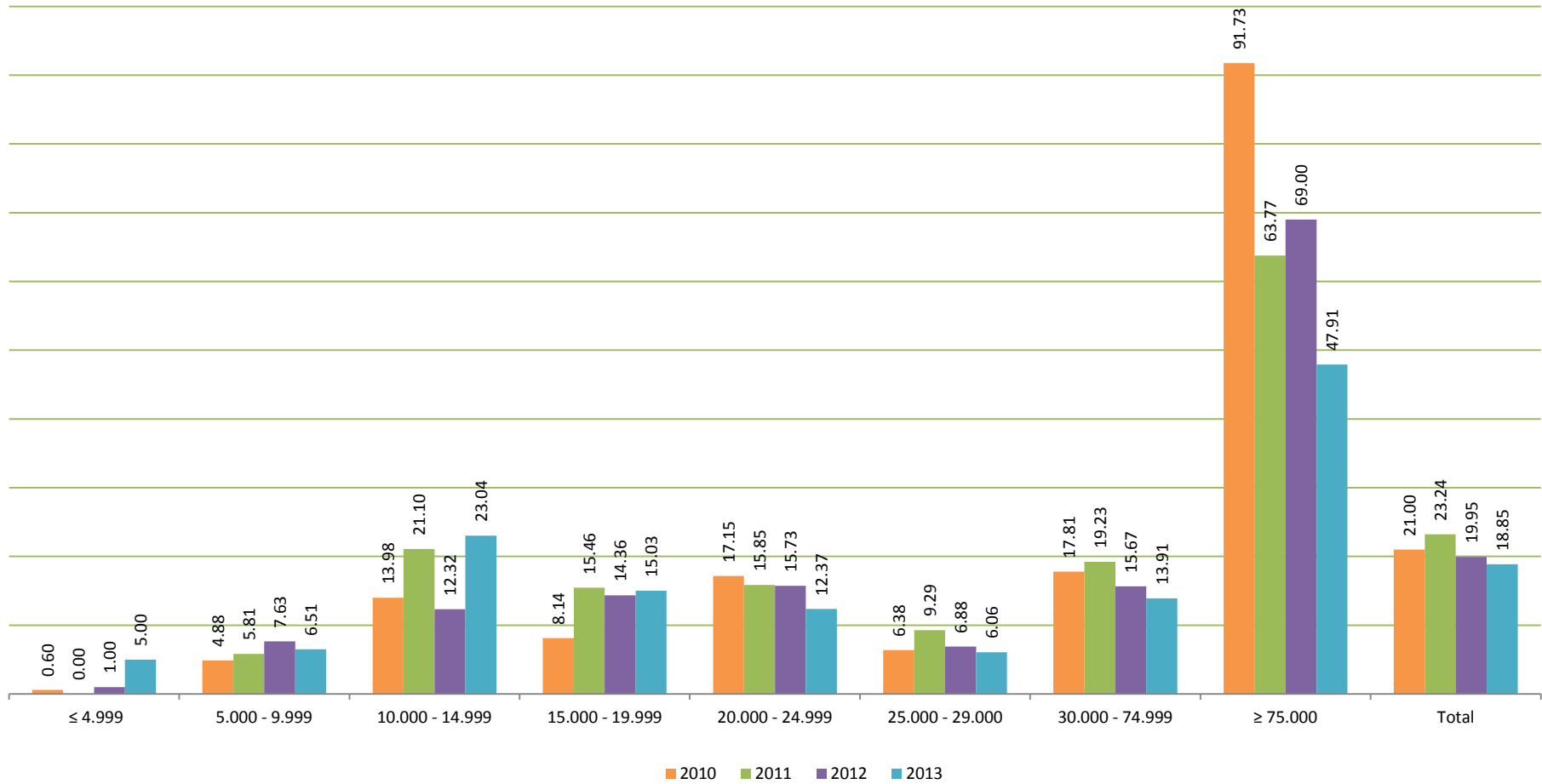
The graph below gives an overview of the number of environmental enforcement inspections carried out following complaints and reports and the number of environmental enforcement inspections carried out at own initiative by municipal supervisors over the period 2010-2013.



Graph 37 Number of environmental enforcement inspections carried out at own initiative and number of environmental enforcement inspections following complaints and reports

In contrast to the inspections carried out by supervisors appointed within the police districts, the share of proactive inspections decreases compared to the total number of inspections carried out in the municipalities. This decrease amounts to 17%. Nevertheless, the proactive inspections amount to 35% on average of the total number of inspections carried out over the period 2010-2013.

The following graph gives an overview of the average number of inspections per supervisor by category of municipalities.



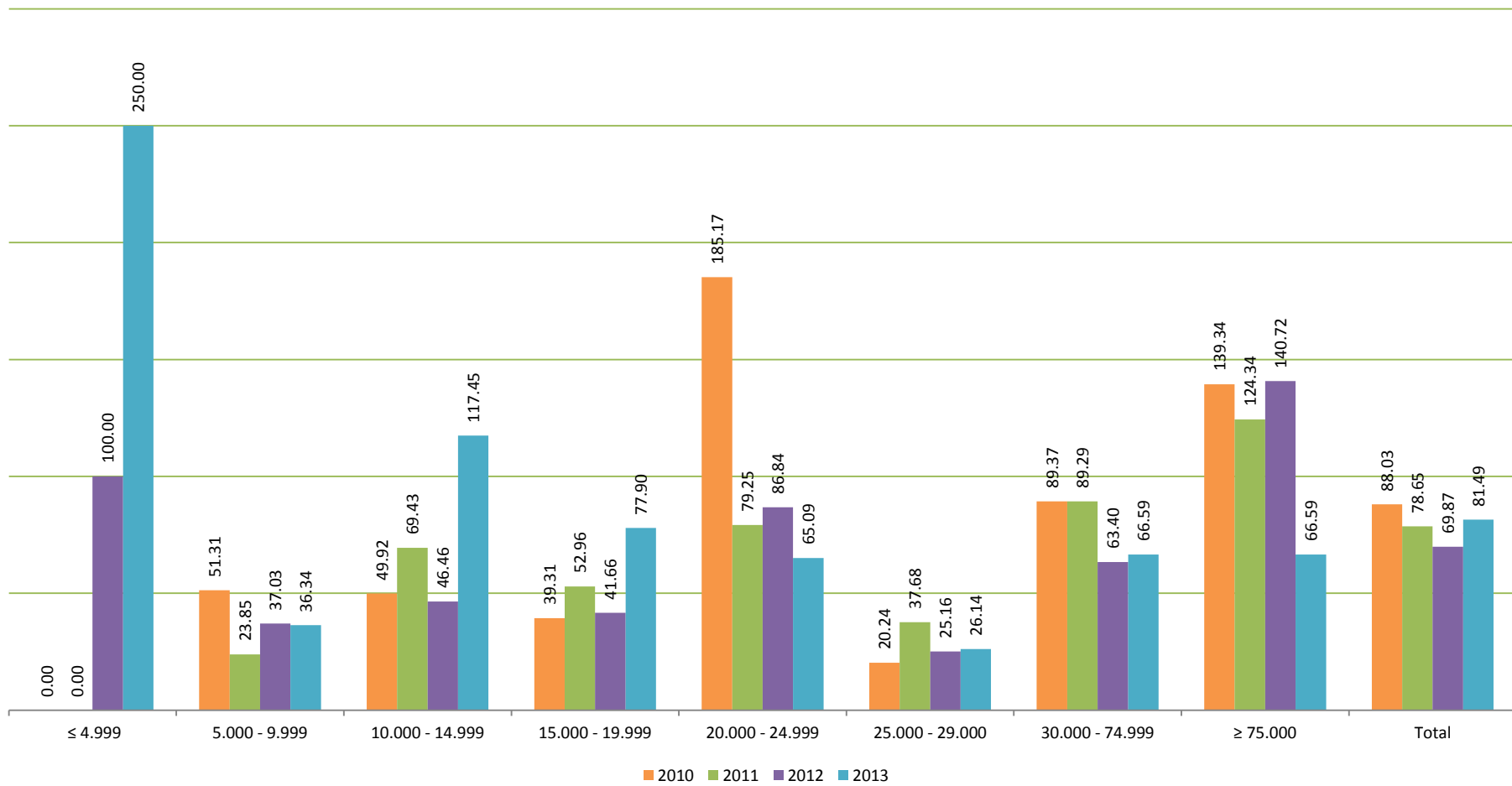
Graph 38 Average number of inspections per municipal supervisor

Because both the number of supervisors and the number of performed environmental enforcement inspections declined over the period 2010-2013 compared to 2010, the average number of inspections per supervisor also decreased in general. This can also be observed in the above graph. The average number of inspections per supervisor fell by 10% over the period 2010-2013. This falling trend can mainly be observed in the larger municipalities (categories from 20,000 inhabitants). On the other hand, in the categories of municipalities with a population of less than 4,999, a population of 10,000 to 14,999 and a population of 15,000 to 19,999 an increase can be observed in the average number of inspections per supervisor in comparison to 2010. This increase amounts to 733%, 65% and 85% respectively.

Despite the fact that the size of the municipality had an impact on the average number of supervisors in those municipalities which had appointed a supervisor, the size of the municipality no longer has any impact on the average number of inspections per supervisor in these municipalities. Only in the largest category of municipalities, i.e. with more than 75,000 inhabitants, the average number of inspections per supervisor is substantially higher. Despite this, a strong decrease can be observed in 2013, which amounts to 48%.

A remarkable difference can be found when comparing the average number of inspections per municipal supervisor over the period 2010-2013 against the average number of inspections per local police supervisor. For the municipalities this generally amounts to 21 inspections on average per supervisor. For local police supervisors this is generally 85 inspections on average per supervisor. However, both supervisors have the same competences.

The following graph gives an overview of the average number of environmental enforcement inspections per FTE by category of municipalities over the period 2010-2013.



Graph 39 Average number of environmental enforcement inspections per FTE

In the graph above a decrease in the average number of inspections per FTE can generally be observed in 2011 and 2012 compared to 2010. However, in 2013, a slight increase is reported again. For the period 2010-2013 a small decrease of 7% can be recorded in comparison with the 2010 data. This can be explained by the 8% decrease in the number of performed inspections and the 4% decrease in the average number of FTEs dedicated to environmental enforcement duties per supervisor. Given the differentiated picture in the different categories of municipalities it can again be concluded that the population does not have any impact on the average number of inspections per FTE.

Again, a remarkable difference can be observed between local police supervisors and municipal supervisors. Within the municipalities an average number of inspections of 79.51 per FTE can generally be recorded over the period 2010-2013, whereas this amounts to 200.68 inspections per FTE in the police districts.

2.3.7 Intermunicipal associations

Article 16.3.1, §1, 4° of the Environmental Enforcement Act provides for the possibility to appoint personnel of an intermunicipal association as supervisors. Such intermunicipal supervisors can only perform supervisory duties in the municipalities that belong to the intermunicipal association.

Since the Environmental Enforcement Act has become effective in 2009, the intermunicipal associations have become increasingly important in the environmental enforcement landscape. Organising the monitoring of compliance with environmental law via an intermunicipal association indeed has a number of advantages. For instance, it may be interesting for smaller municipalities to organise themselves this way. The appointment of an intermunicipal supervisor could lead to a scale increase in terms of the expertise and geographical availability of the supervisor. As the position of supervisor is currently not required to be full-time equivalent, and in smaller municipalities it is often combined with other duties, the appointment of a full-time equivalent within an intermunicipal association can only increase the expertise of this supervisor. Furthermore, it would be recommendable to appoint several supervisors within an intermunicipal association, because in this way supervisors would not have to perform any inspections in their own municipalities.

Therefore, the Flemish High Council of Environmental Enforcement considers it important to map out the activities of these intermunicipal associations and for that reason has questioned those intermunicipal associations that are known to have organised themselves or are in the process of organising themselves around environmental enforcement.

Just like for the 2012 Environmental Enforcement Report the VHRM received a completed questionnaire from five intermunicipal associations for the present Environmental Enforcement Report.

Intermunicipal association 1		
Number of municipalities:	20	(2012: 20)
Appointed supervisors:	6	(2012: 6)
FTEs dedicated to environmental enforcement duties (Environmental Enforcement Act):	< 1	(2012: < 1)
FTEs dedicated to administrative support by non-supervisors:	< 1	(2012: < 1)
Number of inspections:	29	(2012: 32)
Following complaints and reports:	25	(2012: 30)
Inspections carried out at own initiative:	4	(2012: 2)
No infraction was identified:	19	(2012: 15)
A recommendation was formulated:	22	(2012: 35)
An exhortation was formulated:	1	(2012: 4)
An administrative measure was imposed:	0	(2012: 1)
Official reports were drawn up:	6	(2012: 6)
Non-priority:	5	
Priority:	1	
Intermunicipal association 2		
Number of municipalities:	15	(2012: 14)
Appointed supervisors:	4	(2012: 4)
FTEs dedicated to environmental enforcement duties (Environmental Enforcement Act):	0.77	(2012: 1.3)
FTEs dedicated to administrative support by non-supervisors:	0.15	(2012: 0.2)
Number of inspections:	100	(2012: 100)
Following complaints and reports:	39	(2012: 49)
Inspections carried out at own initiative:	61	(2012: 51)
No infraction was identified:	32	(2012: 0)
A recommendation was formulated:	36	(2012: 91)
An exhortation was formulated:	26	(2012: 9)
An administrative measure was imposed:	0	(2012: 0)
Official reports were drawn up:	3	(2012: 9)
Non-priority:	0	
Priority:	3	
Intermunicipal association 3		
Number of municipalities:	54	(2012: 12)
Appointed supervisors (trained, but not appointed):	2	(2012: 0)
FTEs dedicated to environmental enforcement duties (Environmental Enforcement Act):	0.3	(2012: 0.5)
FTEs dedicated to administrative support by non-supervisors:	0.1	(2012: 0.1)
Number of inspections:	1	(2012: 65)
Following complaints and reports	1	(2012: 0)
Inspections carried out at own initiative:	0	(2012: 65)
No infraction was identified:	0	(2012: 0)
A recommendation was formulated:	1	(2012: 65)
An exhortation was formulated:	0	(2012: 0)
An administrative measure was imposed:	0	(2012: 0)
Official reports were drawn up:	0	(2012: 0)
Non-priority:		
Priority:		

Intermunicipal association 4		
Number of municipalities:	11	(2012: 2)
Appointed supervisors:	1	(2012: 1)
FTEs dedicated to environmental enforcement duties (Environmental Enforcement Act):	0.07	(2012: 0.05)
FTEs dedicated to administrative support by non-supervisors:	0	(2012: 0)
Number of inspections:	22	(2012: 9)
Following complaints and reports	9	(2012: 6)
Inspections carried out at own initiative:	13	(2012: 3)
No infraction was identified:	0	(2012: 2)
A recommendation was formulated:	7	(2012:)
An exhortation was formulated:	15	(2012: 3)
An administrative measure was imposed:	0	(2012: 1)
Official reports were drawn up:	0	(2012: 3)
Non-priority:		
Priority:		
Intermunicipal association 5		
Number of municipalities:	18+7PZ	(2012: 18)
Appointed supervisors:	1	(2012: 2)
FTEs dedicated to environmental enforcement duties (Environmental Enforcement Act):	1	(2012: 0.4)
FTEs dedicated to administrative support by non-supervisors:	0.2	(2012: 0.2)
Number of inspections:	39	(2012: 0)
Following complaints and reports	38	
Inspections carried out at own initiative:	1	
No infraction was identified:	1	
A recommendation was formulated:	13	
An exhortation was formulated:	18	
An administrative measure was imposed:	0	
Official reports were drawn up:	5	
Non-priority:	5	
Priority:	0	
A safety measure was imposed:	1	

3. Evaluation of the use of the individual environmental enforcement instruments and safety measures

While the previous chapter mainly focused on the individual enforcement actors and their efforts in the framework of the Environmental Enforcement Act, this chapter is centred around the environmental enforcement instruments.

The idea is to obtain insight into the use of all the resources that were made available to enforcement actors⁴¹ to reach their objectives. Particular attention will be paid to whether certain instruments are used less often, for example because they are new instruments which the enforcement actors are less familiar with, or which they avoid using due to a lack of knowledge and expertise.

The enforcement instruments are compared against the number of implemented enforcement inspections during which an infraction was identified during the period 2010-2013. In the Environmental Enforcement Report 2009 these were compared for each actor with the total number of performed inspections⁴². The advantage of comparing with the number of inspections during which an infraction was identified is that the use of the instruments can be reflected when necessary, with the exception of recommendations. At the same time a picture is provided of the total number of inspections compared to the number of inspections during which an infraction was identified. This makes it possible to comment on the actors' degree of compliance and targeted enforcement.

Similar to Chapter 2 'Evaluation of the regional environmental enforcement policy', the evaluation of the individual enforcement instruments is based on the information given by the enforcement actors. The use of these figures implies that all the notes and remarks made in the previous Environmental Enforcement Reports apply here as well.

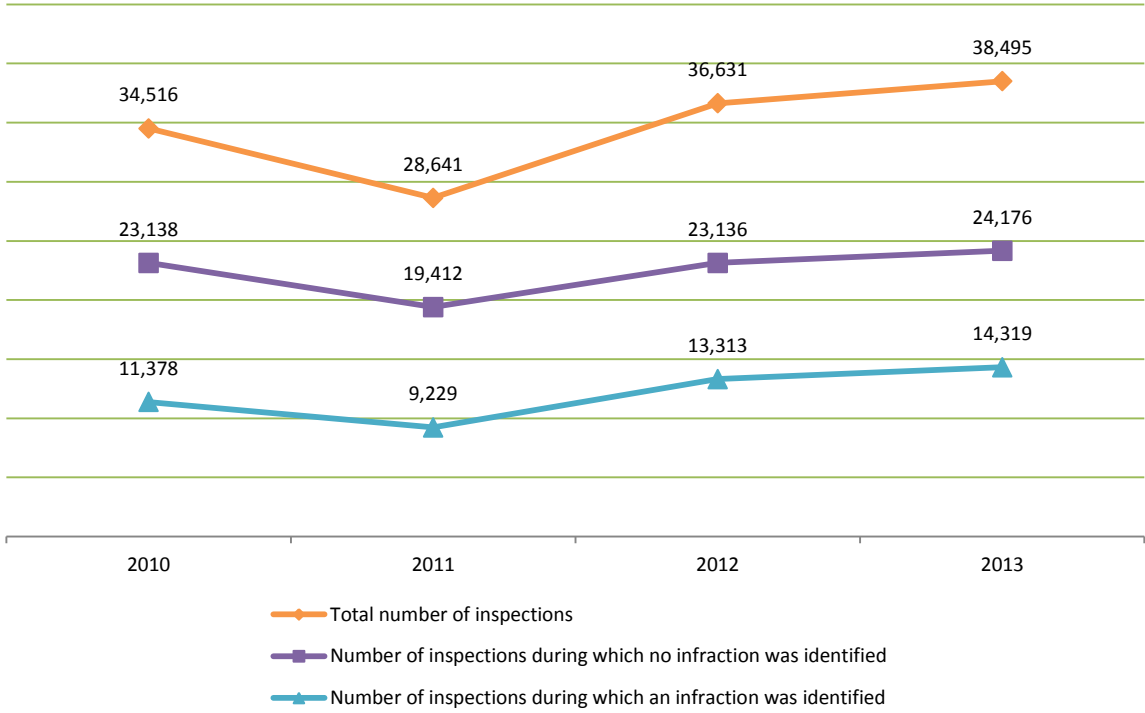
In the previous chapter the local police and municipal supervisors are subdivided into different categories on the basis of their population. In this chapter local police supervisors and municipal supervisors are included as one single actor, besides the other actors.

⁴¹ The actors AWZ, MOW and NV De Scheepvaart are not included here, since they did not yet perform any inspections during the studied period or because the data regarding environmental enforcement inspections carried out within the scope of the Environmental Enforcement Act are not available.

⁴² The 2009 Environmental Enforcement Report did not give a breakdown of the total number of inspections and the number of inspections during which an infraction was identified. Therefore, the data from that Environmental Enforcement Report will not be used in this section of the synthesis report.

3.1 Inspections during which an infraction was identified

In order to make an accurate evaluation of the environmental enforcement instruments, the right parameters should be compared with each other. In the graph below the total number of performed inspections is broken down into the number of 'inspections during which no infraction was identified' for the period 2010-2013⁴³. Since an instrument can only be used to establish an environmental offence or environmental infringement, the number of times it was applied will be compared to the number of 'inspections during which an infraction was identified'. One exception to this is the instrument 'recommendation'. The reason for this is that the recommendation can only be applied when there is a risk of an environmental offence or environmental infringement, but no infraction was identified yet.



Graph 40 Number of inspections during which an infraction was identified and number of inspections during which no infraction was identified

The graph above shows that the total number of inspections carried out by supervisors increased over the period 2010-2013⁴⁴, despite the decrease in 2011. This increase amounts to 12%. Moreover, it can be established that the ratio between the number of inspections during which no infraction was identified and the number of inspections during which an infraction was identified remained stable in the period 2010-2013. On

⁴³ For certain actors several inspections can be carried out for one infraction, including both inspections before the actual identification of the infraction and inspections after the identification of the infraction. The former inspections are inspections during which several identifications are made which finally result in the conclusion that an infraction has taken place. It should be mentioned for the applied work method that infractions are linked by certain actors to several inspections (prior inspections, identification inspections and progress inspections). However, in order to avoid a double count of the infractions, they are linked to only one inspection in the reports. As a result, the percentage of inspections during which no infraction was identified is to be considered in the right context.

⁴⁴ The total number of inspections for 2012 does not correspond to the sum of the total number of inspections during which an infraction was identified and the number of inspections during which no infraction was identified. The reason for this is that the Environmental Licences Division indicated having performed 409 inspections for 2012. During 207 inspections no infraction was identified, whereas during 20 inspections an infraction was identified. At the time of the survey within the framework of the formulation of the 2012 Environmental Enforcement Report, the result of 182 of the total of 409 environmental enforcement inspections carried out in 2012 was not yet known by the Environmental Licences Division. This explains the difference of 182 of the total number of inspections compared to the sum of the number of inspections during which no infraction was identified and the number of inspections during which an infraction was identified.

the basis of these data an average ratio of respectively 65% and 35% can be recorded in the period 2010-2013. This recorded high percentage of inspections during which no infraction was identified could point to a high compliance rate or the lack of a risk-oriented approach and targeted supervision.

The graph below reflects the average percentage ratio⁴⁵ between the number of inspections during which no infraction was identified and the number of inspections during which an infraction was identified for each enforcement actor over the period 2010-2013.



Graph 41 Percentage ratio of inspections during which an infraction was identified and inspections during which no infraction was identified per enforcement actor

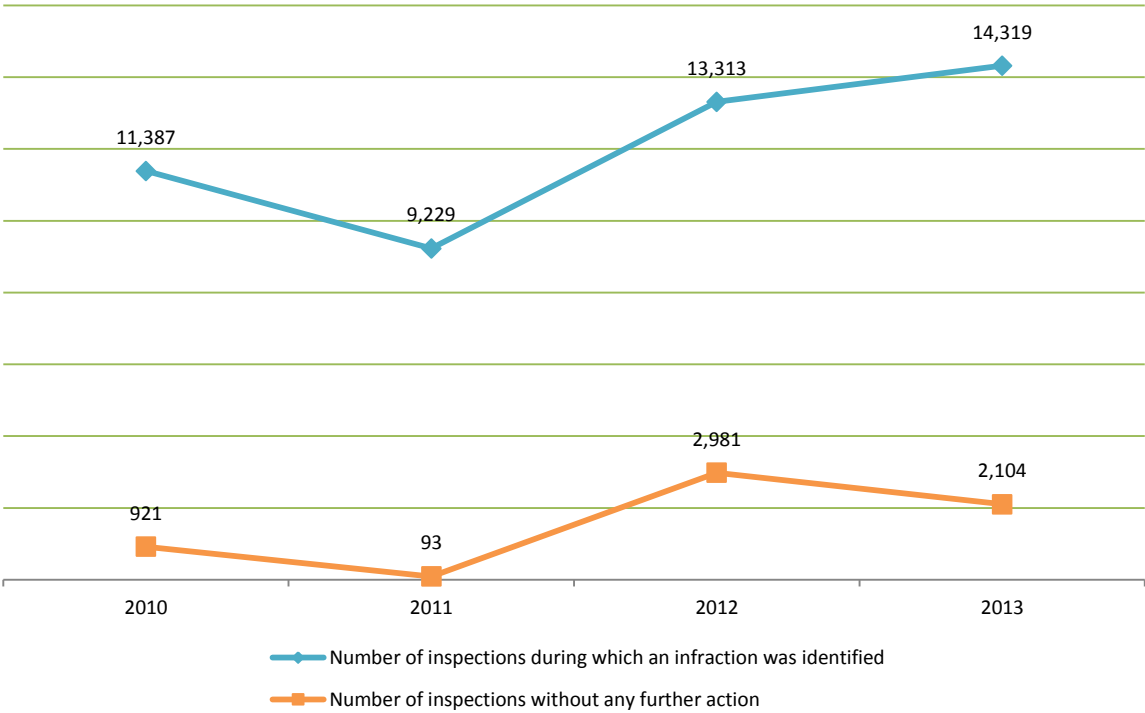
The graph above shows that there is a differentiated picture in the ratio between the number of inspections during which no infraction was identified and the number of inspections during which an infraction was identified. There are enforcement actors who identify an infraction during each inspection, whereas others do not identify any infractions in more than 2/3 of the performed environmental enforcement inspections.

With the local supervisors the percentage of the number of inspections during which an infraction could be identified far exceeds the average of 35%. This can possibly be explained by the fact that with the municipal supervisors an average of 65% of the total number of inspections were carried out following complaints and reports over the 2010-2013 period. With local police supervisors an average of 86% of the number of inspections were carried out following complaints and reports. It can be assumed that more infractions could be identified during inspections that are carried out following complaints and reports.

⁴⁵ This average percentage ratio gives a picture of the percentage ratios over the past four years. The idea is not to evaluate the period 2010-2013 as a whole in order to give a percentage ratio for this entire period. Each studied year has an equal weight, which means that activities carried out in one specific year are given the same weight as activities implemented in another year. Such an average percentage ratio for the period 2010-2013 is applied in order not to give a distorted picture of the whole of percentage ratios in the studied period.

3.2 Inspections without further action

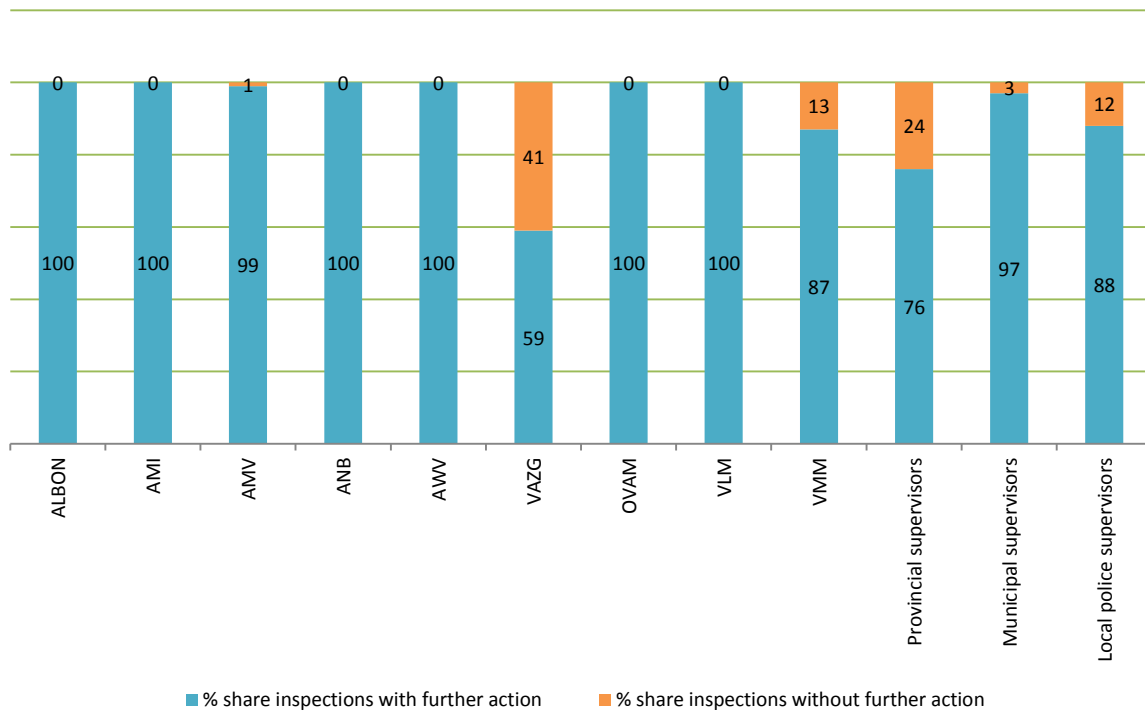
In the survey the environmental enforcement actors were asked about the number of inspections carried out during which infractions – either environmental infringements or environmental offences – of the applicable environmental law were identified, but for which no action was taken. In the table below the number of 'inspections without further action' is compared to the total number of 'inspections during which an infraction was identified' in the period 2010-2013.



Graph 42 Number of inspections during which an infraction was identified and number of inspections without further action

It can be deduced from the above graph that for on average 11.5% of the inspections during which an infraction was identified no further action was taking following the infraction. This share of inspections without further action strongly increased in 2012 and 2013 compared to 2010 and 2011. Compared to 2010, a 78% increase can be observed in the number of inspections for which no further action was taken with respect to the identified infractions during the studied period.

In the following graph the average percentage share of inspections without further action for the period 2010-2013 is given for each enforcement actor.



Graph 43 Percentage ratio between inspections during which an infraction was identified and inspections without further action per enforcement actor

As is apparent from the above graph only a few enforcement actors do not always take further action with regard to the environmental infractions identified by them. However, it can be established that most actors who carry out inspections during which an infraction is identified, but for which no further action is taken, do not take any action at all for more than 10% of the inspections during which an infraction is identified.

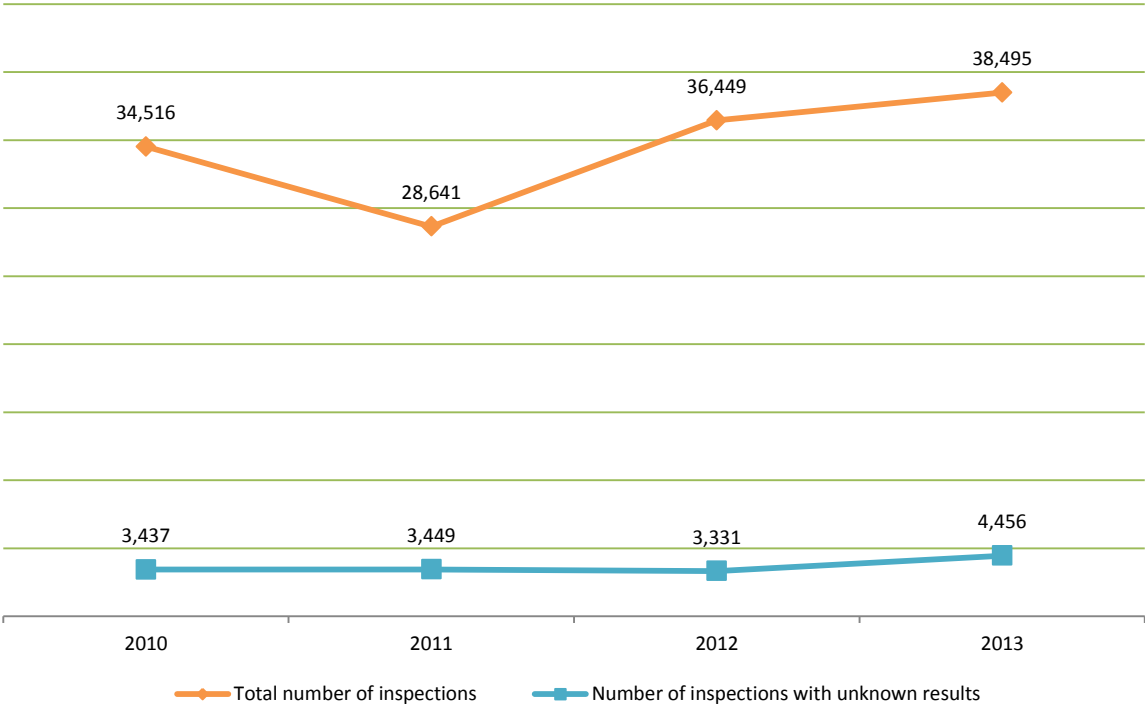
The Environmental Enforcement Act offers a wide range of instruments that can be used to penalise the infraction or have it penalised on the one hand and to put an end to or undo the infraction and its consequences on the other hand. Therefore, it seems advisable to make optimal use of these instruments in order to avoid impunity and/or undo the damage caused by the infraction. On the other hand, not identifying certain violations need not necessarily pose a problem; however, in this case it is recommended that the conditions under which priorities are set are made explicit so as to make sure the supervisors are informed about this.

It is advised to examine why no further action was taken. The reason may be, for instance, that the suspected offender was unknown and the supervisor was of the opinion that there was hardly any or no chance at all of identifying the offender. An important conclusion is that most supervisors use the instruments provided to them by the Environmental Enforcement Act to take remedying action, to restore conformity, to undo consequences and to prevent repetition or make sure infractions are penalised.

3.3 Inspections with unknown results

Through the survey among the environmental enforcement actors it was examined how many inspections had unknown results. This was done by differentiating between the total number of performed inspections on the one hand and the number of inspections during which no infraction was identified, the number of inspections for which no further action was taken with respect to the identified infraction, the number of recommendations, the number of exhortations, the number of identification reports and the number of official reports on the other hand. On the one hand, this is thus a minimum number, since several instruments can be used during an inspection. On the other hand, certain actors link several inspections to one single infraction. These prior and progress inspections may wrongfully be designated as inspections with unknown results. Another possibility is that actors register the positive inspections (inspections during which no infraction was identified and the situation was considered to be in conformity) with respect to the inspections during which an infraction was identified.

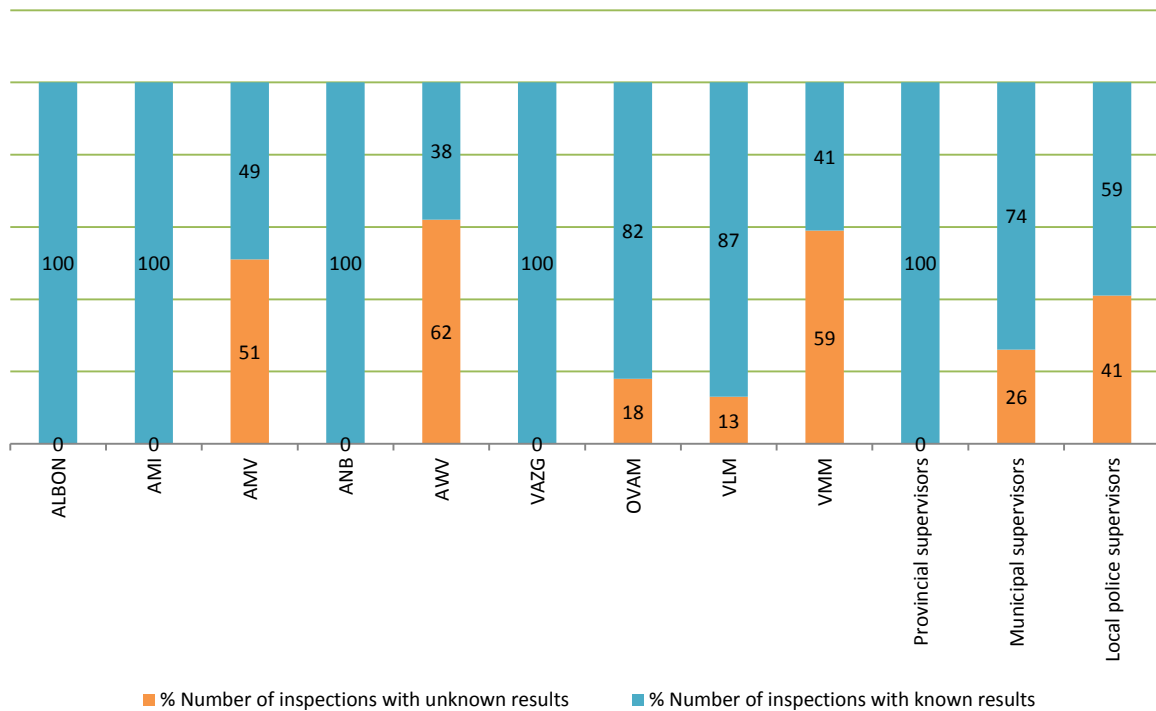
In the graph below the number of 'inspections with unknown results' is compared to the total number of environmental enforcement inspections carried out over the period 2010-2013.



Graph 44 Total number of inspections and number of inspections with unknown results

The above graph shows that the number of inspections with unknown results increased compared to 2010. This increase amounts to 30%. Given the fact that the total number of environmental enforcement inspections carried out in that period also increased, the percentage share of the number of inspections with unknown results with respect to the total number of performed environmental enforcement inspections remained about the same, with an average of 11% over the period 2010-2013.

The graph below gives an overview of the average percentage ratio between the number of inspections with unknown results and the number of inspections with known results for each enforcement actor over the period 2010-2013.



Graph 45 Percentage ratio between inspections with known results and inspections with unknown results for each enforcement actor

It can be established that half of the environmental enforcement actors carried out inspections with unknown results in the period 2010-2013. Only with two actors this is more than half of the total number of performed environmental enforcement inspections.

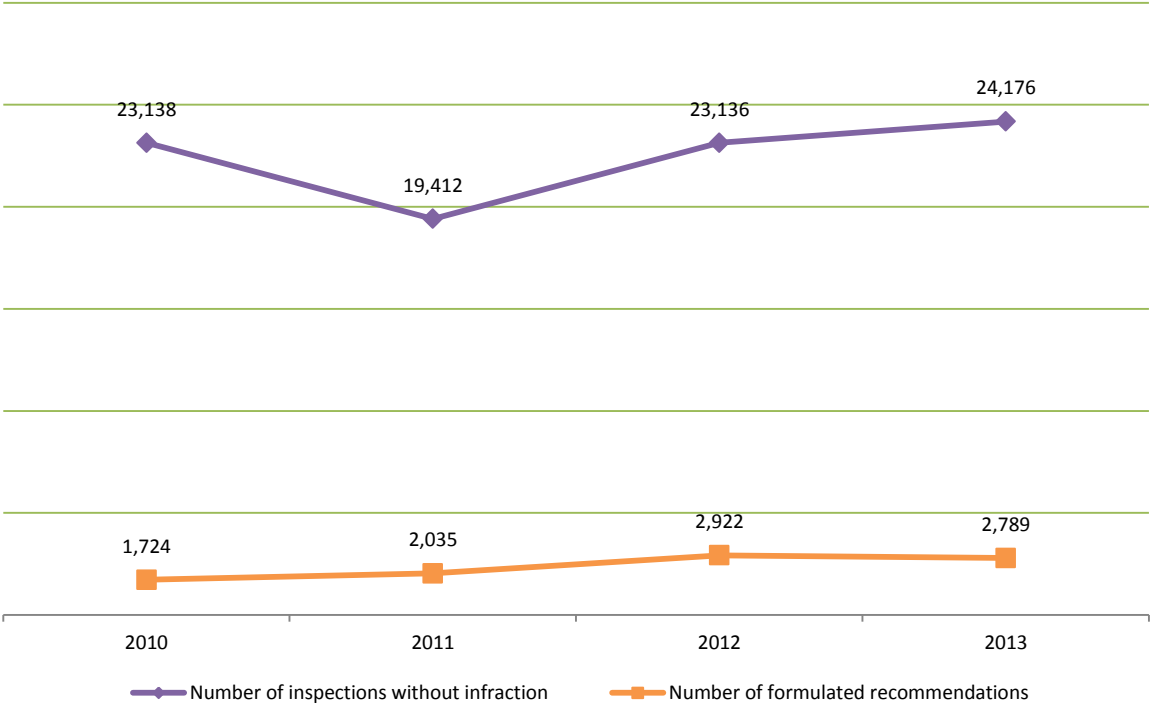
In the context of the aforementioned data attention must be drawn to the importance of good monitoring. Good monitoring is indeed crucial for efficiently drawing up the Environmental Enforcement Report. Complete and accurate information is to be used as much as possible, since each inspection with unknown results means that only an incomplete evaluation can be made for the relevant actors and the whole set of instruments.

3.4 Evaluation of the instrument 'recommendation'

In Article 16.3.22 of DABM the instrument 'recommendation' is described as follows: "When supervisors observe that an environmental infringement or an environmental offence threatens to occur, they may give any recommendations they consider useful to prevent this".

Since the 'recommendation' is a preventative instrument and can therefore only be used if no offence was identified, the number of recommendations is compared to the number of inspections during which no infraction was identified. When interpreting the data below, however, account should be taken of the fact that during an inspection an infraction can be identified and that, apart from the application of an exhortation, an identification report or an official report, a recommendation is also formulated during that same inspection with regard to any possible future infractions. An overestimation in terms of percentage of the number of formulated recommendations with regard to the number of inspections during which no infraction was identified can therefore not be excluded.

The graph below gives an overview of the application of the instrument 'recommendation' in the period 2010-2013.

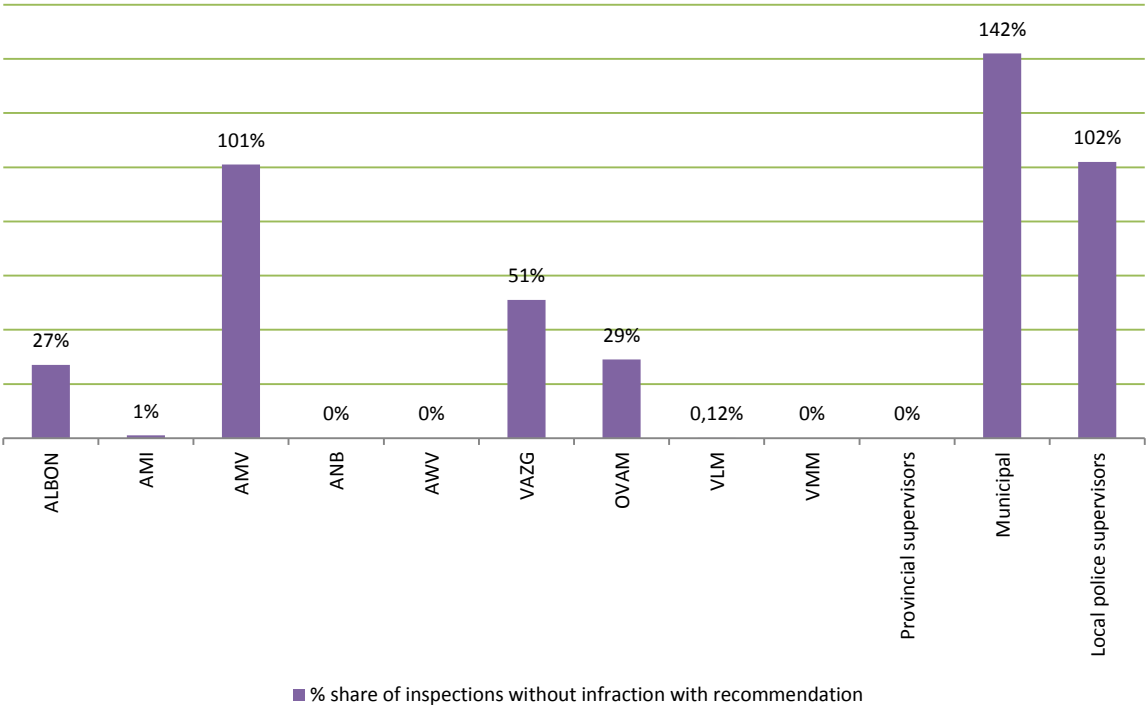


Graph 46 Number of inspections during which no infraction was identified and number of formulated recommendations

In the period 2010-2013, 9,470 recommendations were formulated for the total of 89,862 inspections during which no infractions were identified. This is nearly 11% of the inspections. This means that in 1 out of 10 of the performed environmental enforcement inspections during which no infraction was identified, an environmental infringement or an environmental offence threatened to occur. Therefore, recommendations were formulated to prevent the impending infringement or offence.

As is apparent from the above graph, an increase could be recorded not only in the number of inspections during which no infraction was identified over the period 2010-2013, but also in the number of recommendations formulated during these inspections. This increase amounts to 4% and 62% respectively compared to 2010. Given the higher percentage increase in formulated recommendations, it can be assumed that the instrument was used more frequently during the studied period.

The graph below reflects the percentage share of inspections during which no infraction was identified and a recommendation was formulated for the period 2010-2013 per enforcement actor.



Graph 47 Percentage share of inspections without any infractions and for which a recommendation was formulated

The graph above shows the average percentage use of the instrument 'recommendation' for the inspections during which no infraction was identified. A highly diverse use of the instrument can be recorded for the different supervisory bodies⁴⁶.

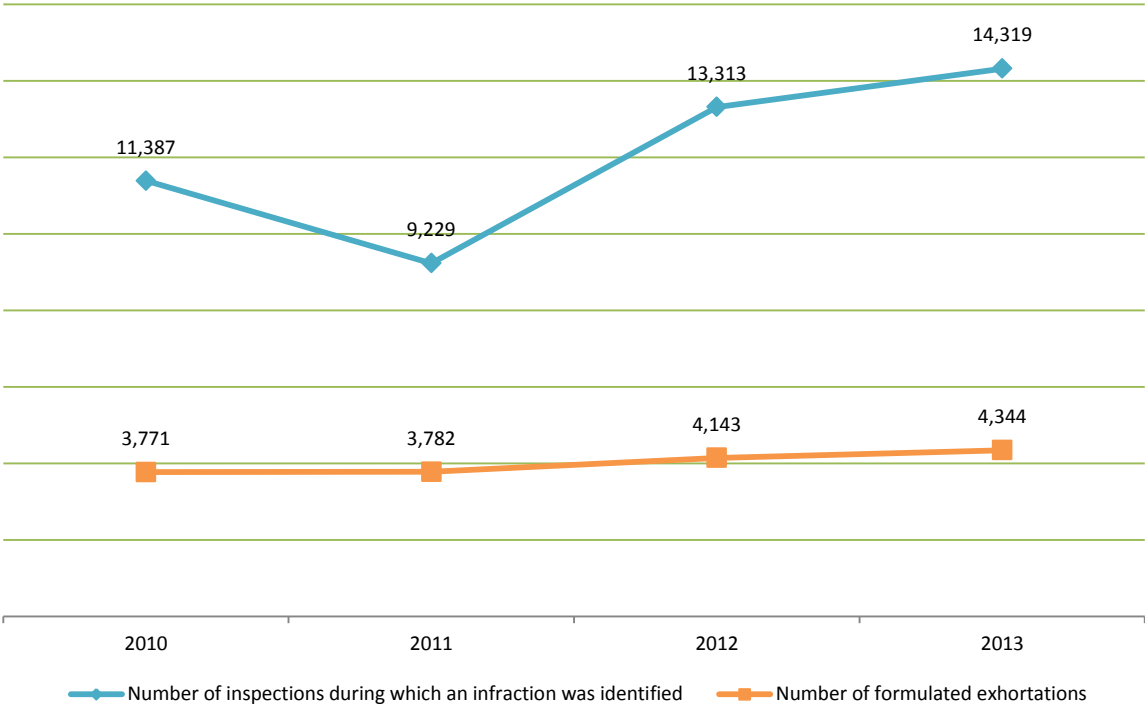
Certain actors did not formulate any recommendations in the period 2010-2013, whereas others formulated several recommendations for inspections during which no infractions were identified. This means that they anticipated and raised awareness of imminent environmental infractions. This can clearly be noticed with local supervisors, where at least one recommendation was formulated for each inspection without infractions, in order to prevent potential future environmental infringements or environmental offences.

⁴⁶ For more information and details about enforcement activities of specific enforcement actors reference can be made to the enforcement report of the specific actor itself, provided the enforcement actor concerned has drawn up such a report. With regard to the used method, it should be mentioned that certain actors have linked infractions to several inspections (prior inspections, identification inspections and progress inspections), whereas, in order to avoid a double counting of the inspections, they are linked to only one inspection in the reporting. As a result, the percentage of inspections during which no infraction was identified should be put into perspective.

3.5 Evaluation of the instrument 'exhortation'

For the instrument 'exhortation' a clear definition can be found in DABM as well. Article 16.3.27 of DABM states: "When supervisors, during the performance of their supervisory duties, identify an environmental infringement or an environmental offence, they may exhort the suspected offender and any other parties involved to take the necessary measures to end this environmental infringement or environmental offence, partly or entirely reverse its consequences, or prevent its repetition".

The graph below shows the figures relating to the use of the instrument 'exhortation' compared to the total number of inspections during which an infraction was identified in the period 2010-2013.

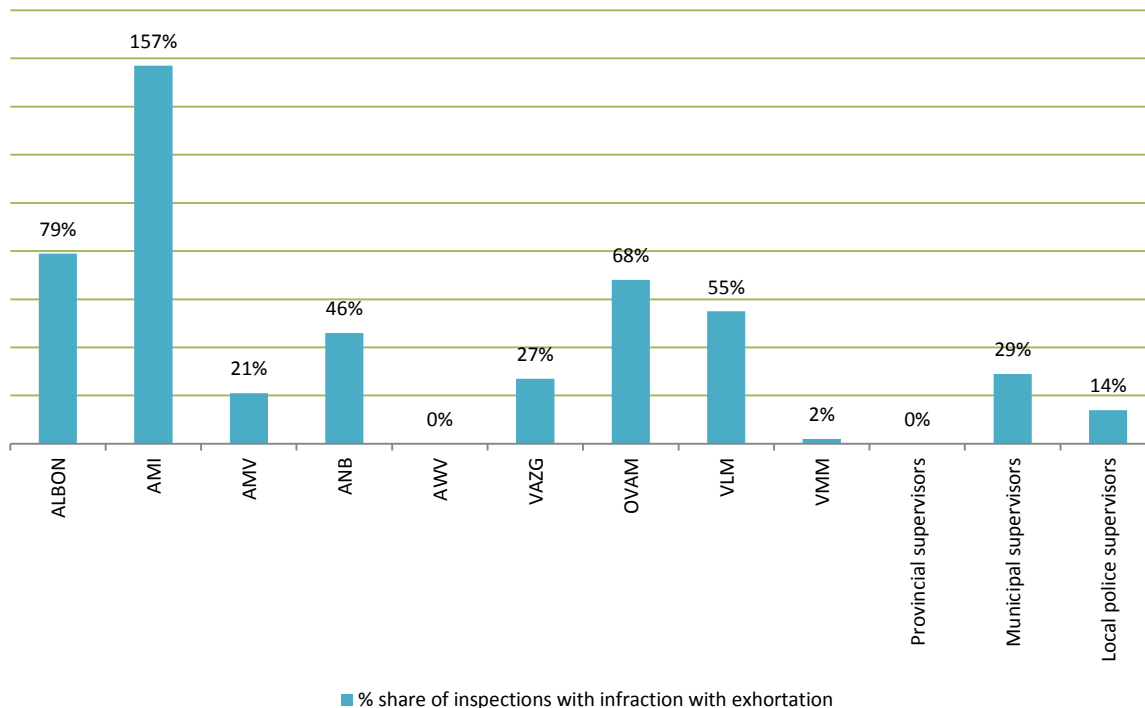


Graph 48 Number of inspections during which an infraction was identified and number of formulated exhortations

With respect to the 48,239 inspections during which an infraction could be identified over the period 2010-2013, 16,040 exhortations were formulated for the identified environmental infringements and environmental offences. This is a percentage ratio of 33%.

Over the period 2010-2013 the number of inspections during which an infraction could be identified increased. This increase amounts to 26%. The number of formulated exhortations increased as well during the studied period. In this case the increase was 15%. As a result, the percentage increase in the instrument 'exhortation' with respect to the number of performed environmental inspections during which an infraction could be identified slightly decreased compared to 2010.

The graph below reflects the percentage share of inspections during which an infraction was identified and an exhortation was formulated for the period 2010-2013 per enforcement actor.



Graph 49 Percentage share of inspections during which an infraction was identified and for which an exhortation was formulated

The above graph shows that most of the supervisory bodies used the instrument 'exhortation' during the period 2010-2013 for an inspection during which an infraction was identified. However, it can be concluded that this use strongly differs between the enforcement actors. The percentage use of five supervisory bodies far exceeds the average use of 33%, whereas other enforcement actors rarely or never formulate an exhortation for an identified offence.

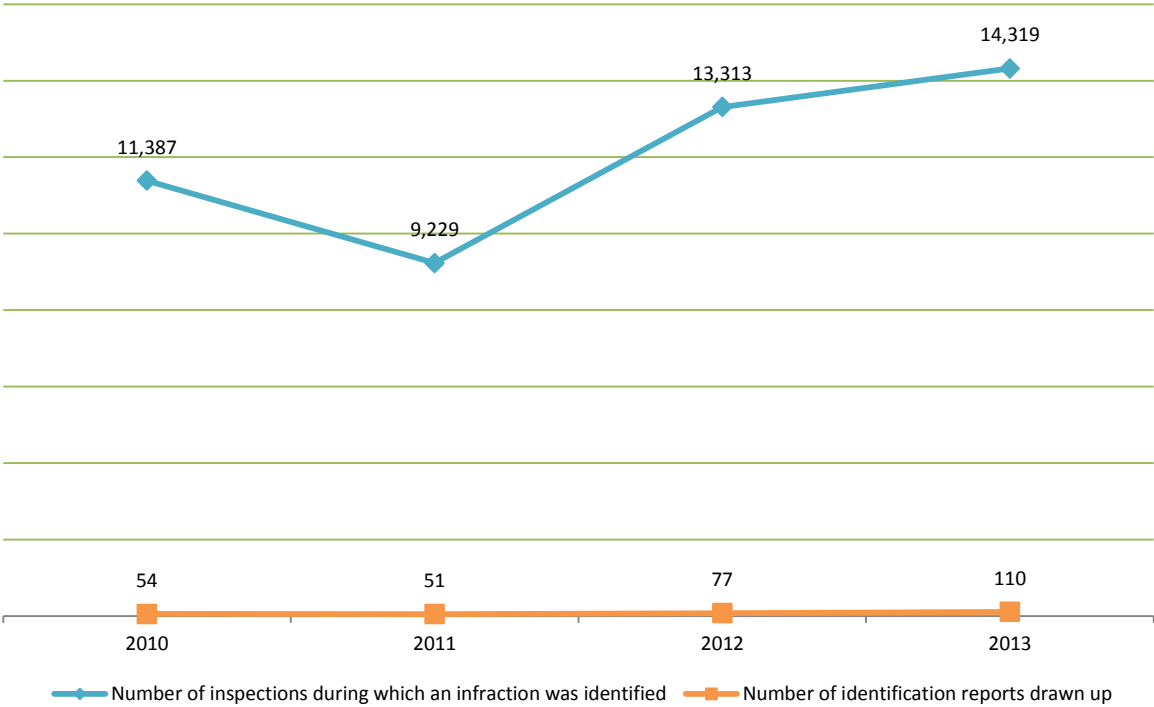
3.6 Evaluation of the instrument 'identification report'

The 'identification report' is an enforcement instrument which was created with the coming into force of the Environmental Enforcement Act on 1 May 2009. One of the major changes effected by the Environmental Enforcement Act is the decriminalisation of certain administrative infringements of environmental law which have a limited impact on the environment, on the basis of six cumulative criteria to be met by the said infringements. This resulted in a list, included as 12 annexes to the Decree of 12 December 2008, of behaviour that qualifies as an environmental infringement. This type of behaviour is thus no longer punishable. The identification report is the instrument for reporting environmental infringements⁴⁷, so that an exclusive administrative sanction can then be applied. Supervisors can draw up such an identification report, but are not under the obligation to do so. Supervisors have discretionary power in this respect and can therefore judge themselves whether its use is appropriate.

⁴⁷ Although the identification report, as well as the official report, can be described as 'instruments' that are available to supervisors in the context of environmental enforcement, they are not administrative instruments in themselves, but a way to report infractions to a body that imposes sanctions.

The graph below reflects the total number of formulated identification reports in comparison to the number of inspections during which an infraction was identified during the period 2010-2013.

It should be remarked that the 'identification report' is an instrument which is used by supervisors when an environmental infringement is identified. The figure which the instrument is compared to is the number of inspections during which an infraction was identified, including both environmental offences and environmental infringements. The figures below thus do not give a picture of the number of times an environmental infringement was identified and the number of times an identification report was drawn up for this.



Graph 50 Number of inspections during which an infraction was identified and number of identification reports drawn up

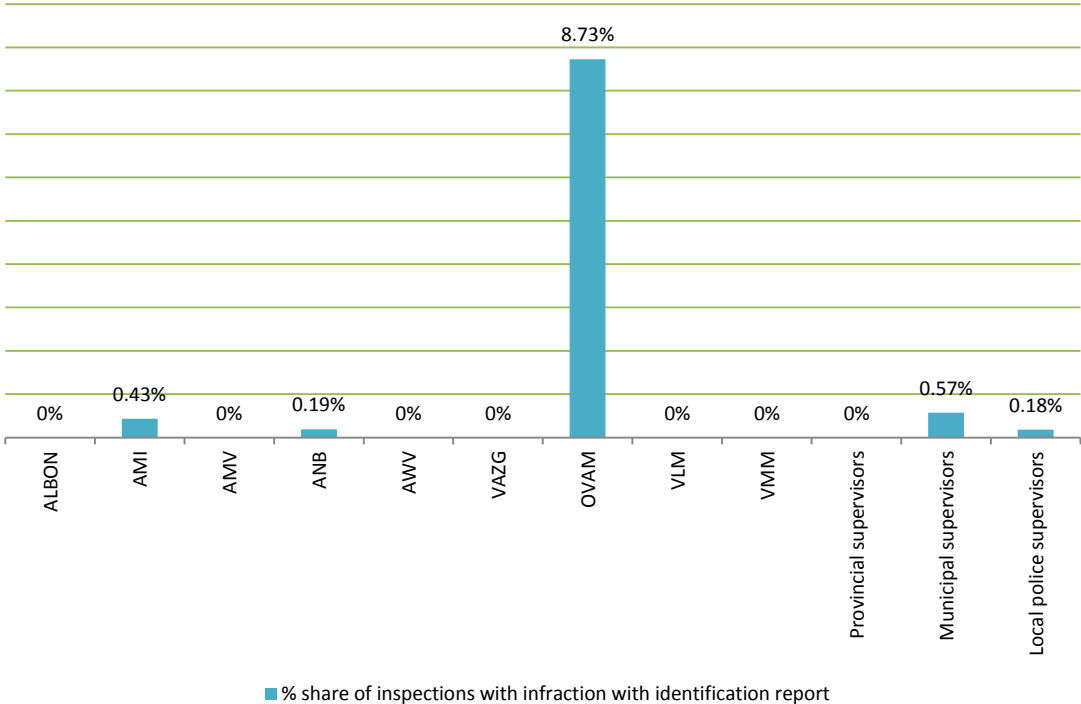
As is apparent from the above graph the number of identification reports that are drawn up following inspections during which an infraction was identified is very low. This percentage ratio is 0.48% on average.

What can be established, however, is that - given a 26% increase in the number of inspections during which an infraction could be identified compared to 2010 - a growing number of identification reports were drawn up in the period 2010-2013, both in absolute numbers and in relation to the number of environmental enforcement inspections during which an infraction was identified. In absolute numbers, a 104% increase can be recorded compared to 2010. The percentage increase in the number of identification reports compared to the number of inspections during which an infraction was identified rose from 0.47% in 2010 to 0.55% in 2011, 0.58% in 2012 and 0.77% in 2013.

Despite the fact that more and more identification reports are drawn up, very little use is still made of the instrument. However, the number of identification reports is not necessarily in proportion to the number of identified environmental infringements. As indicated earlier, the supervisor has the discretionary power to decide whether or not to draw up an identification report for an identified environmental infringement.

In advance of the data in the next chapter a discrepancy can be found in the number of identification reports drawn up by the supervisory bodies and the number of identification reports received by the AMMC in the studied period. The above data show that in the period 2010-2013 a total of 292 identification reports were drawn up by the supervisors. During that same period the AMMC received 210 identification reports.

The graph below reflects the percentage share of inspections during which an infraction was identified and an identification report was drawn up for the period 2010-2013 per enforcement actor.



Graph 51 Percentage share of inspections during which an infraction was identified and for which an identification report was drawn up

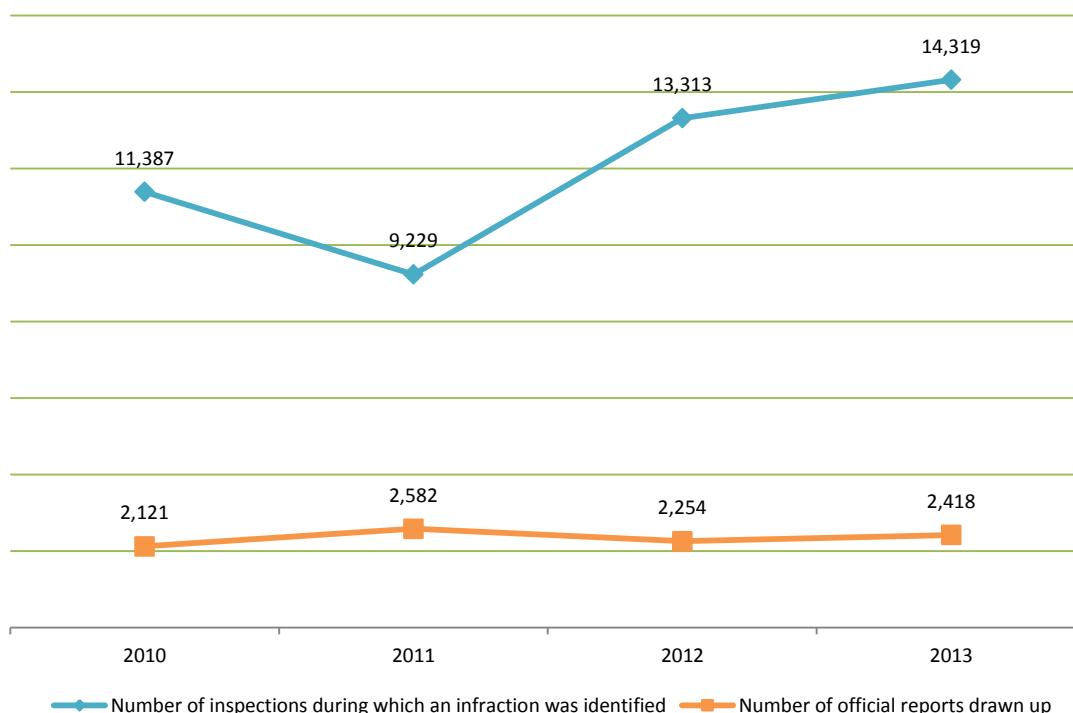
As appears from the above graph, only 5 supervisory bodies used the instrument 'identification report'. The supervisory bodies that used the instrument during the period 2010-2013 only used it to a limited extent.

Within the framework of the evaluation of the Environmental Enforcement Act and the Environmental Enforcement Decree, the criteria of environmental infringements were adjusted (deletion of criterion 'violation of administrative obligations') and the list of environmental infringements was extended. As a result, more environmental offences were decriminalised and can be penalised by means of an identification report. The next Environmental Enforcement Reports will show whether this extended list of environmental infringements has an impact on the use of the instrument 'identification report'. It may be recommended to further examine the relation between the number of identification reports, the number of environmental infringements and the number of exhortations.

3.7 Evaluation of the instrument 'official report'

While environmental infringements can be identified via an identification report, supervisors have to use official reports to report environmental offences to the public prosecutor's office. The graph below provides an overview of the initial official reports drawn up per enforcement actor in the period 2010-2013 with respect to the number of inspections during which an infraction was identified.

Once again, only limited figures are available, just like for the instrument 'identification report'. The comparison between the number of official reports drawn up and the number of inspections during which an infraction was identified does not give an accurate picture of the number of identified environmental offences. The reason for this is that the number of inspections during which an infraction was identified may refer to either environmental offences or environmental infringements.



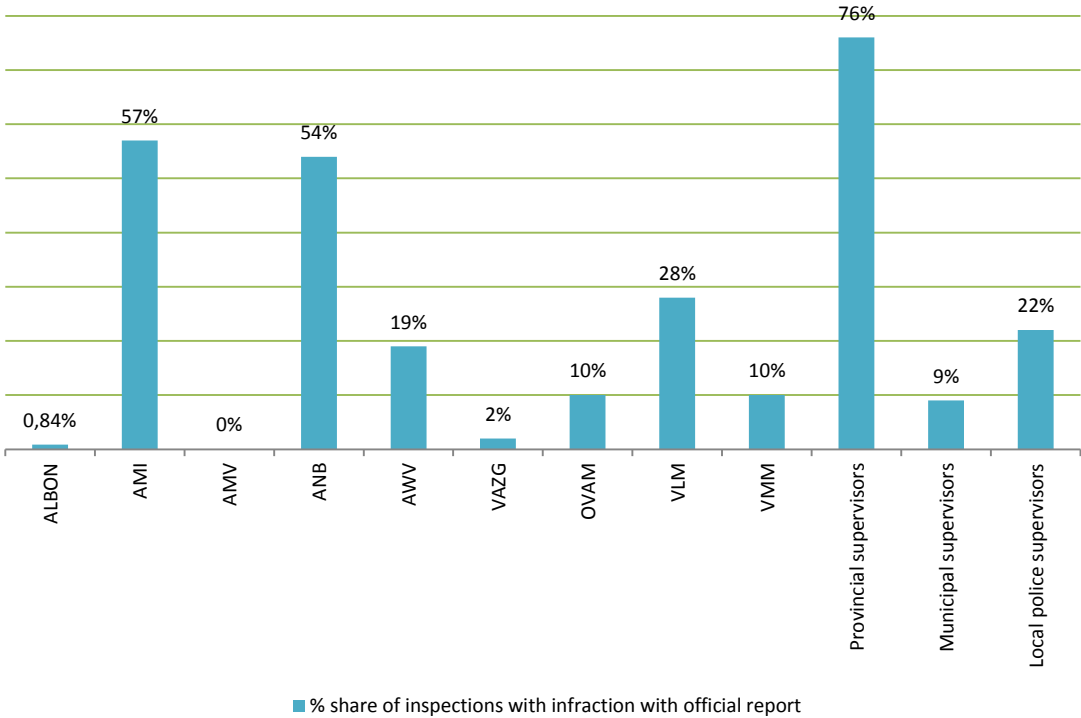
Graph 52 *Number of inspections during which an infraction was identified and number of official reports drawn up*

It can be deduced from the above graph that during the period 2010-2013 an official report was drawn up for 1/5 on average of the inspections during which an infraction (environmental offences and environmental infringements) was identified. Since an official report was actually drawn up for the identified infraction in only 20% of the number of inspections during which an infraction was identified, it can be concluded that a pragmatic approach⁴⁸ is adopted to Article 29 of the Code of Criminal Procedure which stipulates that when an offence is identified an official report is to be drawn up which is to be subsequently delivered to the public prosecutor.

⁴⁸ <http://www.vhrm.be/voor-de-toezichthouder/ondersteunende-documenten/adv-12.90001-de-nota-artikel-29-wetboek-strafvordering-inclus-inleiding.pdf> - Article 29 of the Code of Criminal Procedure.

In absolute numbers the number of official reports drawn up has increased compared to 2010. This increase amounts to 14%. However, the percentage use of the instrument compared to the number of inspections during which an infraction could be identified decreased from 19% in 2010 to 28% in 2011 and to 17% in 2012 and 2013. It can be deduced from this that, percentage-wise, increasingly fewer official reports are drawn up when an infraction is identified.

The graph below reflects the percentage share of inspections during which an infraction was identified and an official report was drawn up for the period 2010-2013 per enforcement actor.



Graph 53 Percentage share of inspections during which an infraction was identified and for which an official report was drawn up

Taking into account the limitations of the figures and the fact that the identified infractions could also be environmental infringements, it can be concluded that apart from the official report, each enforcement actor also uses other instruments when an infraction is identified, either at the same time or separately. None of the actors identify each infraction, environmental offence or environmental infringement on the basis of an official report or an identification report (see graph on percentage share of formulated identification reports).

However, a distinction is to be made between the different enforcement actors. During the period 2010-2013, for instance, five enforcement bodies percentage-wise drew up more official reports for inspections during which an infraction could be identified than the total average of 20%. Other bodies made little or no use of the instrument for the identified infractions.

In March 2013, the protocol ‘Priorities Document on the Prosecution Policy for Environmental Law in the Flemish Region’⁴⁹ was signed by the Ministers for Environment and Justice. This protocol lays down the priorities set within the framework of supervision and prosecution, so as to be able to align them with each other. In this protocol it is also stipulated that official reports which are drawn up for environmental offences

⁴⁹ <http://www.vhrm.be/english/20130930-priority-note.pdf>

are designated in the priorities document as 'priority official reports'. For the 2013 survey, the VHRM asked the enforcement bodies to break down between the number of priority and non-priority official reports. Of the total number of official reports that were drawn up in 2013, i.e. 2,418, 55% were priority official reports.

A number of bodies - VLM and VMM - focused their supervision entirely on the provisions of the Priorities Document and only drew up priority official reports. The local police supervisors as well, who drew up more than 33% of the total number of official reports in 2013, drew up three fourths of priority official reports. The other bodies which used the instrument 'official report' drew up a priority official report for less than half of the official reports. For OVAM, ANB and AMI the percentage of priority official reports amounts to 19%, 47% and 39% respectively.

3.8 Evaluation of the instrument 'administrative measure' and 'appeals against decisions to impose administrative measures'

3.8.1 Evaluation of the instrument 'administrative measure'

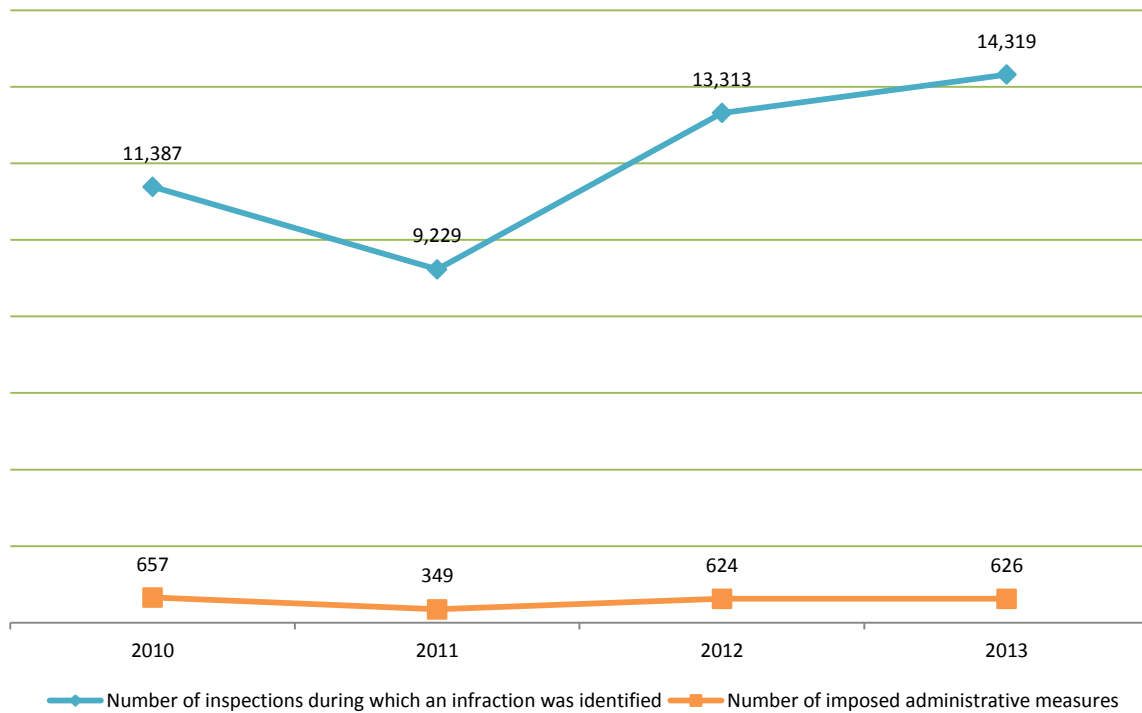
Just like for the previous Environmental Enforcement Reports, it was also decided for the present synthesis report to consider and evaluate the 'administrative measure' as an environmental enforcement instrument. In accordance with the provisions of Chapter IV of the Environmental Enforcement Act, the imposition of administrative measures is part of administrative enforcement, together with the imposition of administrative fines. In this sense, we could also have discussed administrative measures in Chapter 4.2. However, it was opted to pronounce upon the use of the entire set of enforcement instruments available to supervisors in the field in the conclusion of the present chapter.

Articles 16.4.5 through 16.4.18 of Title XVI of DABM lay down the rules for the imposition, the repeal, the implementation, the appeal against and the petition for the imposition of administrative measures. Appeals against decisions to impose administrative measures will be discussed in greater detail in Chapter 3.8.2.

In accordance with Article 16.4.7 of DABM administrative measures can take the form of:

- an order to the suspected offender to take measures to end the environmental infringement or environmental offence, partly or entirely reverse its consequences, or prevent its repetition;
- an order to the suspected offender to end activities, works, or the use of objects;
- an actual action of the persons mentioned in Article 16.4.6, at the expense of the suspected offender, to end the environmental infringement or environmental offence, partly or entirely reverse its consequences, or prevent its repetition;
- a combination of the measures mentioned in 1°, 2° and 3°.

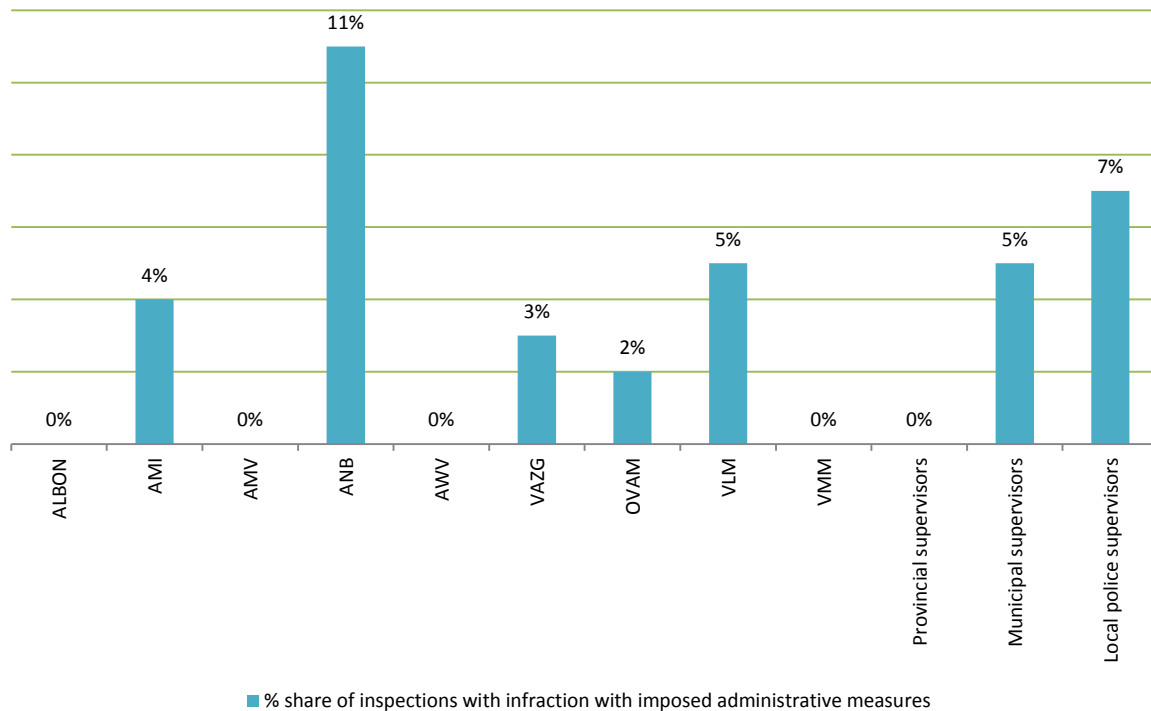
The graph below gives an overview of the total number of imposed administrative measures in relation to the number of inspections during which an infraction was identified in the period 2010-2013.



Graph 54 Number of inspections during which an infraction was identified and number of imposed administrative measures

It can be deduced from the above graph that during the period 2010-2013 a total of 2,256 administrative measures were imposed on a total of 48,239 inspections during which an infraction was identified. This comes down to almost 5%. However, in absolute numbers a decrease can be observed in the number of administrative measures compared to 2010. This decrease amounts to 5%.

The graph below reflects the percentage share of inspections during which an infraction was identified and an administrative measure was imposed for the period 2010-2013 per enforcement body.



Graph 55 Percentage share of inspections during which an infraction was identified and imposed administrative measures

As illustrated by the above graph, not every enforcement body uses the instrument 'administrative measure'. No less than five of the enforcement bodies imposed no administrative measures at all in the period 2010-2013. In addition, it can be concluded that two bodies - local police supervisors and ANB supervisors - used the instrument more than the average of 5%.

The next graph gives an overview of the percentage share of the different types of administrative measures in relation to the total number of administrative measures imposed in the period 2010-2013. Administrative measures can take the form of:

- a prohibition order: an order to the suspected offender to end activities, works, or the use of objects;
- a regularisation order: an order to the suspected offender to take measures to end the environmental infringement or environmental offence, partly or entirely reverse its consequences, or prevent its repetition;
- administrative enforcement: an actual action of the persons, mentioned in Article 16.4.6 of the Environmental Enforcement Act, at the expense of the suspected offender, to end the environmental infringement or environmental offence, partly or entirely reverse its consequences, or prevent its repetition;
- a combination of these different types of administrative measures.

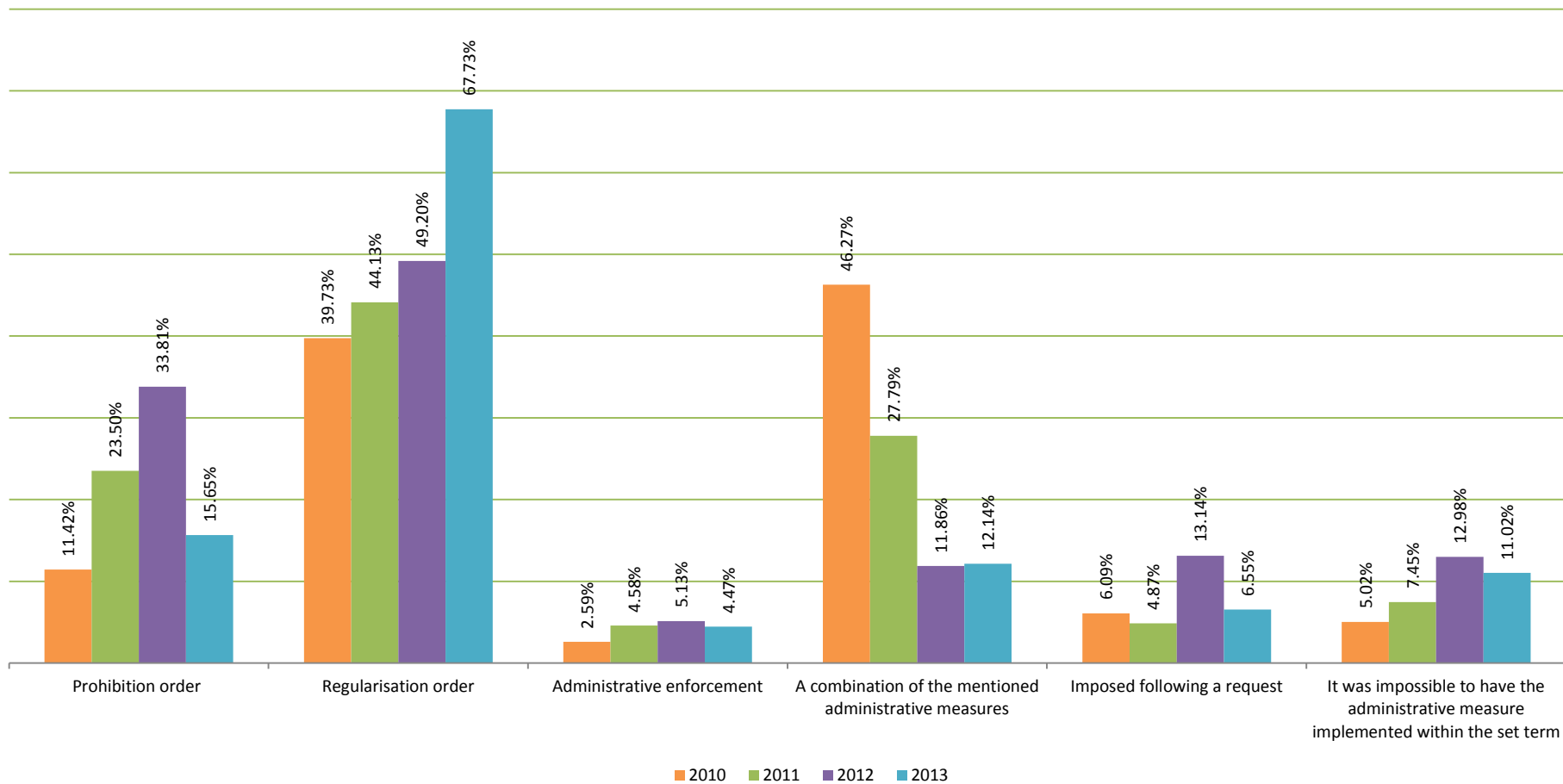
In the survey an additional question was included about the number of administrative measures that were imposed following a petition. Article 16.4.18 of Title XVI of DABM stipulates that people who meet one of the following descriptions may file a petition for the imposition of an administrative measure:

- natural persons and legal persons who suffer direct loss as a result of the environmental infringement or environmental offence;

- natural persons and legal persons who have an interest in this environmental infringement or environmental offence being controlled;
- legal persons as referred to in the Act of 12 January 1993 on a right of action with regard to the protection of the environment.

Each petition for the imposition of an administrative measure must be addressed to the people in charge of its implementation. Article 16.4.6 Title XVI of DABM stipulates that supervisors, for the environmental legislation to which their supervisory duties are related, the governor of a province or his or her deputy, for the environmental infringements or environmental offences, appointed by the Government of Flanders, and the mayor or his or her deputy, for the environmental infringements or environmental offences, appointed by the Government of Flanders, are all authorised to respond to petitions for the imposition of an administrative measure. That is why the table below reflects the number of administrative measures that were imposed following a petition, next to the types of administrative measures.

In order to find out what is the share of administrative measures that were not implemented within the set term, the different actors were asked to give this number. These numbers are also reflected in the graph below, together with the total number of imposed administrative measures.



Graph 56 Percentage share of each type of administrative measure

It can be deduced from the above graph that in the period 2010-2013 on average half of the imposed administrative measures were regularisation orders. However, the percentage share of regularisation orders is strongly growing. In 2013, two thirds of the imposed administrative measures were regularisation orders. In on average 1/4 of the administrative measures imposed in the period 2010-2013 the administrative measure consisted of a combination of the different types of administrative measures. However, this share strongly decreased in 2012 and 2013 compared to 2010 and 2011. The prohibition order constituted on average 1/5 of the total number of administrative measures imposed in the period 2010-2013. However, the share of the prohibition order strongly decreased in 2013 to the benefit of the regularisation order. The administrative enforcement is the least used type of administrative measure. Administrative enforcement was used in only 4% of the total number of administrative measures.

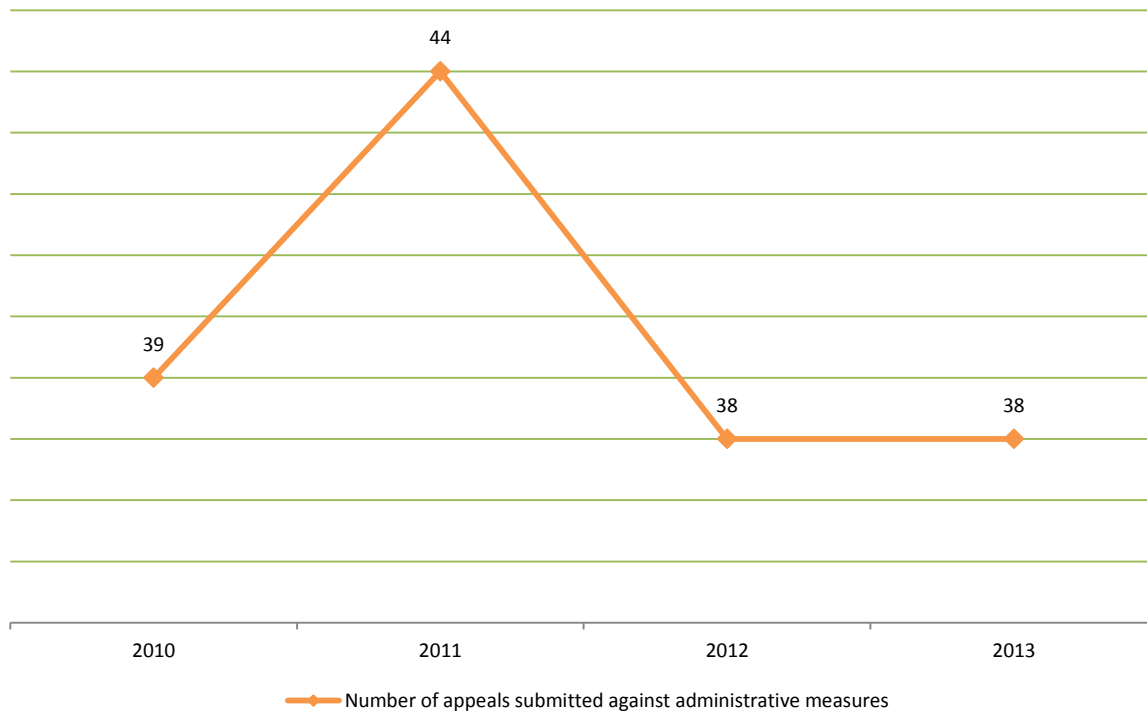
In addition, it can be concluded that on average 8% of the administrative measures were imposed following a petition and that on average 9% of the administrative measures were not implemented within the imposed term.

3.8.2 Appeals against decisions to impose administrative measures

3.8.2.1 Number1 of appeals lodged against decisions to impose administrative measures and relevant decisions

Article 16.4.17 of DABM stipulates that the suspected offender may lodge an appeal against a decision to impose administrative measures with the Minister. The appeal must be submitted to the Minister within a period of fourteen days from notification of the decision to impose administrative measures, at the address of the Environmental Enforcement, Environmental Damage and Crisis Management Division (afdeling Milieuhandhaving, Milieuschade en Crisisbeheer/AMMC) of the Department of Environment, Nature and Energy.

The following graph gives an overview of the number of appeals that were lodged against administrative measures imposed in the period 2010-2013.



Graph 57 Number of appeals lodged against administrative measures

During the period 2010-2013, a total of 159 appeals were lodged in relation to 2,256 imposed administrative measures. This is an average appeal rate of 7%.

The table below reflects the percentage of appeals against decisions to impose administrative measures by type in the period 2010-2013.

Type of the imposed administrative measures	% number of appeals against decisions to impose administrative measures compared to the number of imposed administrative measures				
	2009	2010	2011	2012	2013
Prohibition order	9.09%	9.33%	6.09%	20.83%	9.18%
Regularisation order	1.48%	6.51%	19.48%	3.26%	4.25%
Administrative enforcement	0.00%	0.00%	25%	3.13%	14.29%
Combination (prohibition, regularisation, administrative enforcement)	10.64%	1.64%	4.12%	24.02%	9.21%

Table 12 Appeal rate against imposed administrative measures

On average, an appeal was lodged against 11% of the imposed prohibition orders in the period 2010-2013. For the regularisation orders the appeal rate in the studied period amounted to 8% on average and for administrative enforcement to 11%. If the administrative measure was a combination of measures, an appeal was lodged on average in 10% of the cases.

The Minister has to take a decision within a period of 90 days from the receipt of the appeal. On condition that this is notified to the suspected offender, as well as the person who imposed the administrative measure, the

Minister may extend this period once by 90 days. The AMMC is in charge of the preparation of the appeal case, which means that it studies its admissibility, sets up a hearing, if applicable, and formulates an advisory opinion for the Minister. Since the administrative measures expire if no decision is reached in time, it is important for the Minister to reach a decision within the term laid down by Flemish Parliament Act. The table below shows the processing of appeals against decisions to impose administrative measures for the period 2010-2013.

Processing of appeals against decisions to impose administrative measures	2010	2011	2012	2013
Number of appeals with regard to administrative measures	39	44	38	38
Total amount of appeals that were admissible	29	34	26	32
Number of appeals that were declared well-founded	6	4	4	3
Number of appeals that were declared partially well-founded	8	5	4	5
Number of appeals that were declared unfounded	15	19	18	18
Number of appeals that were declared devoid of purpose	0	6	2	2
Decision of the Minister within the term laid down by Flemish Parliament Act	29	34	26	28

Table 13 Processing of appeals against decisions to impose administrative measures

The table above shows that 79% of the appeals submitted in the period 2010-2013 were actually declared admissible. Of these admissible appeals, only 14% was declared completely well-founded and 18% partially well-founded. In addition, it can be concluded that 70 of the admissible appeals were declared unfounded, which comes down to 56%. In the period 2010-2012 the Minister for Environment always reached a decision on the appeals submitted against decisions to impose administrative measures within the term laid down by Flemish Parliament Act. For the year 2013, the term provided for in the Environmental Enforcement Act was still ongoing for three cases. In one appeal case in 2013 the Minister did not reach a decision in time.

3.8.2.2 Number of appeals lodged against refused petitions for the imposition of administrative measures and relevant decisions

Article 16.4.18, §4 of the Environmental Enforcement Act stipulates that an appeal can be lodged with the Minister against the refusal to impose an administrative measure. The Minister will reach a relevant decision within a term of sixty days following receipt of the appeal. The Environmental Enforcement, Environmental Damage and Crisis Management Division of the Department of Environment, Nature and Energy advises the Minister in these appeals.

The table below gives an overview of the number of appeals lodged against refused petitions to impose administrative measures in the period 2010-2013.

	2010	2011	2012	2013
Appeals against refused petitions for the imposition of administrative measures	8	11	6	7
Total amount of appeals that were admissible	8	10	4	5
Number of appeals that were declared well-founded	1	1	0	0
Number of appeals that were declared partially well-founded	1	3	1	2
Number of appeals that were declared unfounded	6	6	3	1
Appeals for which no decision was taken within the period of 60 days laid down by Flemish Parliament Act	1	0	0	0

Table 14 Number of appeals lodged against refused petitions for the imposition of administrative measures

The table above shows that in the period 2010-2013, a total of 32 appeals were lodged against refused petitions for the imposition of administrative measures. Only five appeals were declared inadmissible, which means that 84% of the submitted appeals were declared admissible. Of these 27 admissible appeals, only 7% were declared completely well-founded and 26% partially well-founded. In addition, 16 appeals, or 59% of the total number of admissible appeals, were declared unfounded. Only in one case did the Minister not reach a decision within the term laid down by Flemish Parliament Act.

3.9 Evaluation of the instrument 'safety measure'

In Chapter VII of Title XVI of DABM the procedure for applying safety measures to persons responsible for the substantial risk, as well as the lifting of safety measures are discussed. For a better understanding of the figures below and the related evaluation, Articles 16.7.1 and 16.7.2 of the Environmental Enforcement Act are reproduced below.

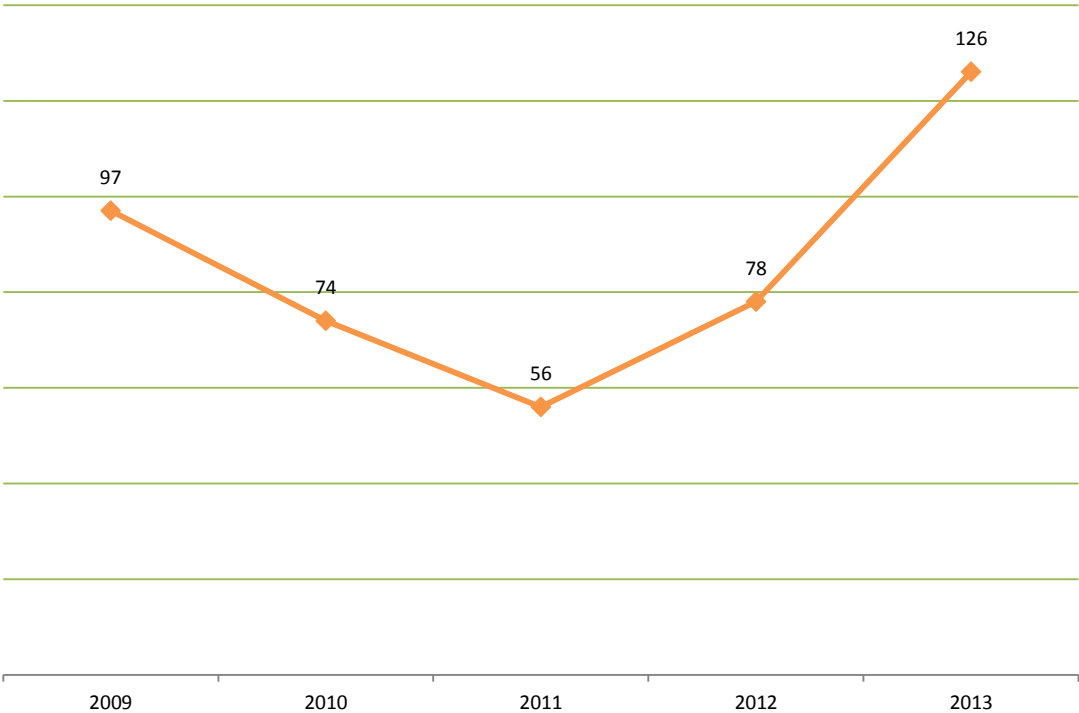
Article 16.7.1 defines the instrument 'safety measures' as follows: "Safety measures are measures by which the persons mentioned in Article 16.4.6 can take or impose any actions they consider necessary under the given circumstances in order to eliminate, reduce to an acceptable level or stabilise a substantial risk to people or the environment". The next article, Article 16.7.2, stipulates that safety measures can be aimed at the following situations, among others:

- the suspension or execution of works, actions or activities, immediately or within a given term;
- the prohibition of the use or the sealing of buildings, installations, machines, equipment, means of transport, containers, premises, and everything therein or thereon;
- the complete or partial closure of a plant;
- the seizure, storage or removal of relevant objects, including waste and animals;
- no entry to or leaving of certain areas, grounds, buildings, or roads.

Contrary to the supervision and the enforcement instruments discussed in this chapter the use of safety measures completely falls outside the enforcement process. Safety measures are indeed not aimed at preventing or reversing the consequences of environmental infringements or environmental offences. They are only imposed when there may be serious danger to people or the environment. Consequently, safety measures are a totally separate category within the Environmental Enforcement Act. Therefore, they are neither an

administrative measure, nor an administrative fine, nor a criminal penalty. Although these are restrictive measures, they do not presuppose any error by the person they are aimed at, and neither are they intended to penalise. What prevails in a safety measure is the general interest, including the protection of public health, order, peace and quiet, and safety.⁵⁰ Because safety measures can be imposed by supervisors, amongst others, as described in the Environmental Enforcement Act, they are still included as instruments in this chapter. However, the idea is not to compare the number of imposed safety measures to the total number of implemented environmental enforcement inspections, as was the case for the other instruments.

For the period 2009-2013 the graph below gives an overview of the number of safety measures that were imposed.

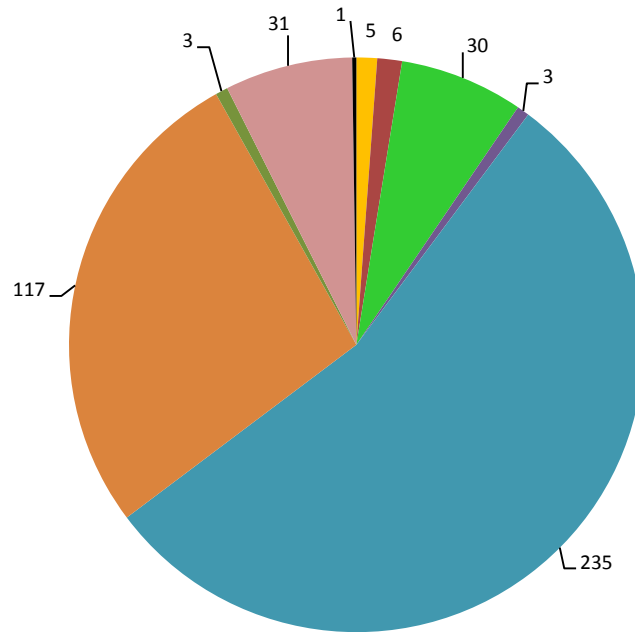


Graph 58 Number of imposed safety measures

The graph above shows that in the period 2009-2013 a total of 431 safety measures were imposed. Despite the fact that the graph indicates a downward curve, a 30% increase can be calculated compared to 2009. Still, the increase of 70% compared to 2010 is more accurate, given the fact that the 2009 data did not cover a whole calendar year.

The following graph shows the total number of safety measures that were imposed by the different enforcement bodies in the period 2009-2013.

⁵⁰ Explanatory Memorandum; parliamentary proceedings, Session 2006-2007, 13 June 2007, Document 1249 (2006-2007) - No. 1, pages 12 and 15.

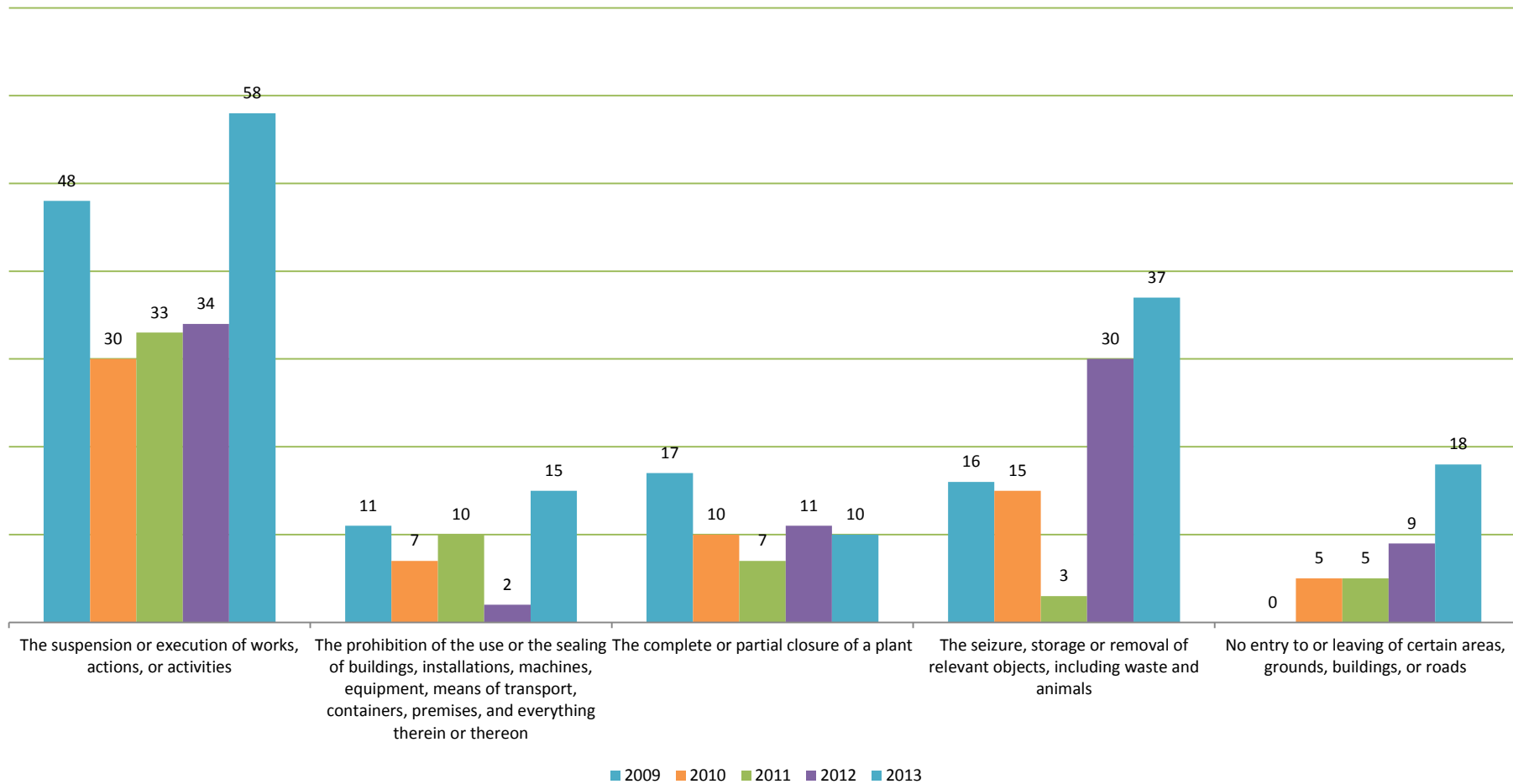


■ AMI
 ■ ANB
 ■ NV De Scheepvaart
 ■ VLM
 ■ Municipal supervisors
 ■ Local police supervisors
 ■ OVAM
 ■ AZ&G
 ■ W&Z

Graph 59 Total number of imposed safety measures per enforcement body

As can be deduced from the above graph, the instrument 'safety measure' is most frequently used by local supervisors. In fact, of the total number of safety measures imposed in the period 2009-2013, no less than 55% were imposed by municipal supervisors and 27% by local police supervisors. The Flemish Agency for Care and Health and nv De Scheepvaart imposed respectively 7.1% and 6.9% of the total number of safety measures. During the period 2009-2013 the other bodies all imposed 6 or fewer safety measures.

The following graph reflects the number of safety measures imposed in the period 2009-2013 by type of safety measure. The supervisory bodies were also asked to indicate the number of safety measures which could not be implemented within the imposed term. The result is presented in the graph below.



Graph 60 Types of safety measures

From the above graph it can be concluded that most of the 431 safety measures that were imposed in total concerned the suspension or execution of works, actions or activities, i.e. 47%. In addition, 23% concerned the seizure, storage or removal of relevant objects, including waste and animals, and 13% constituted the complete or partial closure of a plant.

It can also be concluded that 37 safety measures, or 9% of the total number of safety measures in the period 2009-2013, were not implemented within the imposed term. It can also be remarked that the number of safety measures that were not carried out in time have increased since the Environmental Enforcement Act entered into effect.

4. Evaluation of the Flemish Environmental Sanctions Policy

With the addition of Title XVI 'Supervision, Enforcement and Safety Measures' to the Flemish Parliament Act of 5 April 1995 containing general provisions on environmental policy a framework was created within which, in addition to criminal sanctions, administrative sanctions can also be applied in the form of alternative and exclusive administrative fines, whether or not with a deprivation of benefits⁵¹.

To this end, a distinction was made between environmental offences and environmental infringements. The latter are non-serious infractions, which do not involve any danger to people or the environment, and which are listed exhaustively by the Government of Flanders in the annexes to the implementing order of the Environmental Enforcement Act⁵². No criminal sanctions can be applied in relation to such environmental infringements under DABM, but exclusive administrative fines can be imposed by a new regional body that was created for this purpose, namely the Environmental Enforcement, Environmental Damage and Crisis Management Division (afdeling Milieuhandhaving, Milieuschade en Crisisbeheer or AMMC) of the Department of Environment, Nature and Energy.

Alternative administrative fines, on the other hand, can only be imposed for environmental offences. In principle, such offences can be prosecuted, but when the public prosecutor decides not to do so and notifies the AMMC of this in due time, the environmental offence can be penalised by the AMMC with an alternative administrative fine.

The decision whether or not to prosecute a case is reached on the basis of the Classification Document ('Sorteernota'). This document of the public prosecutor aims to determine which cases will be processed by the public prosecutor's offices themselves and which cases will be referred to the AMMC, so that each official report is processed in an appropriate manner. This is determined on the basis of a number of technical/legal, legal/economic, criminological and practical considerations.⁵³

When an environmental infringement is identified, the supervisor can draw up an identification report. This identification report is sent immediately to the regional body, which is the AMMC. The regional body can impose an exclusive fine, possibly accompanied by a deprivation of benefits. After receiving the identification report, the AMMC can, within a period of 60 days, inform the suspected offender of its intention to impose an exclusive administrative fine (possibly accompanied by a deprivation of benefits). Within a period of 90 days from notification, the regional body decides on the imposition of an exclusive administrative fine, possibly accompanied by a deprivation of benefits. Within ten days, the suspected offender should be informed of this decision.

⁵¹ A deprivation of benefits is a sanction by which an offender is made to pay an amount (which may be an estimated amount) equal to the amount of the gross financial benefit obtained from the environmental infringement or the environmental offence (as defined in the VHRM glossary).

⁵² In 2014 the criterion 'administrative obligation' was deleted in view of a further decriminalisation of certain violations of environmental law (changes to Environmental Enforcement Act in 2014).

⁵³ This Classification Document is available on the VHRM website: <http://www.vhrm.be/voor-de-toezichthouder/ondersteunende-documenten/inf-13.30002-aangepaste-sorteernota.pdf>

When an environmental offence is identified, the person reporting the offence must immediately submit an official report to the public prosecutor at the court of the judicial district where the environmental offence took place. Together with the official report, a written request must be submitted in which the public prosecutor is asked to pronounce on whether or not the environmental offence will be prosecuted. The public prosecutor has 180 days to decide on this, counting from the day the official report was received. This period can be extended once by 180 days, provided reasons are stated. The AMMC is informed of this extension. Both a decision to subject an environmental offence to criminal proceedings and a public prosecutor's failure to communicate his or her decision to the AMMC in due time rule out the imposition of an administrative fine.

If the public prosecutor has informed the AMMC in due time of his or her decision not to prosecute the environmental offence, the AMMC must start the procedure for a possible imposition of an alternative administrative fine. After receiving this decision, the AMMC must inform the suspected offender within a period of 30 days of its intention to impose an alternative fine (possibly with a deprivation of benefits). The AMMC then has 180 days to decide whether an alternative administrative fine (possibly accompanied by a deprivation of benefits) will be imposed. Within ten days the suspected offender must be informed of this decision.

An appeal can be lodged with the Environmental Enforcement Court against the decisions of the AMMC relating to both alternative and exclusive administrative fines.

In 2012, the administrative transaction was introduced by the Flemish Parliament Act of 20 April 2012 containing various provisions regarding environment and nature⁵⁴, of which the procedure entered into effect on 23 August 2012. Bij besluit van de Vlaamse Regering van 6 juli 2012 werden de modaliteiten van de bestuurlijke transactie uitgewerkt.⁵⁵ Before the procedure for the imposition of an alternative or exclusive administrative fine is started the AMMC can make a proposal for the payment of a fine for "more straightforward" environmental offences or infringements that have a limited impact on the environment. However, to this end the infractions must unmistakably be the fault of the offender. If the offender does not pay this type of 'amicable settlement' in time, the regular procedure for the imposition of fines is resumed. This new instrument is oriented towards small environmental and nuisance infractions that have a limited impact on the environment, but which have a disturbing effect on society.

For an environmental offence the administrative transaction cannot exceed 2,000 euros, for an environmental infringement this is maximum 500 euros. The administrative transaction is a new and recently introduced instrument. The first experiences with the administrative transaction will be discussed in this section in the context of the evaluation of the sanctions policy pursued by the Environmental Enforcement, Environmental Damage and Crisis Management Division.

Prior to the Environmental Enforcement Act the Flemish Land Agency could already impose administrative fines itself for infringements included in Article 63 of the Flemish Parliament Act of 22 December 2006 on the protection of water against agricultural nitrate pollution (Flemish Parliament Act on Manure). The Flemish Parliament Act stipulates on whom the fine can be imposed, as well as the maximum amount of the fine. In case of serious infractions, as referred to in Article 71 of that same Flemish Parliament Act, the Flemish Land Agency can draw up an official report, which may be followed by criminal prosecution by the public prosecutor.

Hence, in this section, in which an evaluation will be made of the Flemish sanctions policy in the period 2009-2013, we will not only look at the activities of the public prosecutor's offices, but also at those of the AMMC, the Environmental Enforcement Court and the Flemish Land Agency. The figures from the previous Environmental Enforcement Reports allow us to observe trends in the implementation of the Environmental Enforcement Act since 2009.

⁵⁴ Publication Belgian Official Journal 22 May 2012.

⁵⁵ Flemish Government Decree of 6 July 2012, Belgian Official Journal 13 August 2012.

4.1 Evaluation of the criminal sanctions policy

As stated earlier, the person identifying an environmental offence must immediately submit an official report to the public prosecutor at the court of the judicial district where the environmental offence took place.

Therefore it is important to make an evaluation of the criminal sanctions policy in the period 2009-2013 in the present synthesis report. That is why the Flemish High Council of Environmental Enforcement addressed the Board of Procurators General, asking, among other things, about the number of cases submitted to the public prosecutor's offices in the Flemish Region, and what treatment those cases received.

Before these figures can be discussed, some notes should also be made first with respect to the data.

The figures come from a central database (REA/TPI system) of the statistical analysts connected to the general prosecutor's offices and the Board of Procurators General, which is based only on registrations by the criminal divisions of the public prosecutor's offices of the courts of first instance, and does not contain any data on the number of environmental cases processed by the general prosecutor's offices or the cases related to environmental matters processed by police prosecutors.

It should be pointed out that a few cases relating to nature protection law fall under the competence of the police prosecutors and the police courts (e.g. official reports drawn up in relation to infractions of forestry legislation or fishing legislation, even if the infractions are considered to be major offences). Hence, these environmental cases are not all included in the figures, as they are not all counted in the REA/TPI figures. The registration within the public prosecutor's offices will be standardised in the future.

The VHRM asked whether it was possible to only reflect cases that had occurred in the Flemish Region. The limitation to Flanders was achieved, on the one hand, by counting the cases processed by the Flemish public prosecutor's offices and, on the other hand, by introducing a limitation for the judicial district of Brussels based on a combination of the reporting authority (where official reports drawn up by police departments located in the Brussels Capital Region were not taken into account) and the location where the infraction took place (where infractions committed outside the Flemish Region were not taken into account).

Furthermore, the database contains a double counting of data related to 'other submissions/referrals'. This means that each official report received by a public prosecutor's office is entered in the database and assigned a reference number. If this official report has to be referred to another public prosecutor's office, it is entered in the database once more and assigned a new reference number.

Simplified official reports⁵⁶ are not included in the database of the public prosecutor's offices. The public prosecutor's offices are only provided with a list of simplified official reports. However, if the official report is requested by the public prosecutor's office after all, the database will take these cases into account. The problem is that these simplified official reports are included in the General National Database (see Chapter 2) and the figures below contain an underestimation of the number of simplified official reports that were effectively drawn up.

Generally speaking, it should be stated that the statistics presented by public prosecutor's offices are not statistics on crime or infractions of the regulations, and should therefore not be interpreted as such.

⁵⁶ A simplified official report implies that the most important data about certain non-serious infractions are recorded on an electronic medium. The police only carry out summary investigations or requests for information if necessary. In this way, the reception of redundant documents by public prosecutor's offices is reduced.

This synthesis report bundles together the data that were acquired during the surveys for the 2009, 2010, 2011 and 2012 Environmental Enforcement Reports and the survey that was organised for the present Environmental Enforcement Report. However, it should be pointed out that it is still too early to draw final conclusions on the basis of the date of the data extractions (each time in January after the respective year). Due to the date of extraction it is important to interpret the state of progress of these cases in the right context and perspective. The figures are always indicative for the studied period, since the state of progress of these cases may still have changed after the extraction date. The data and percentages for the different years in the period 2009-2013 only refer to the situation as at the extraction date and do not represent a case's final status. Consequently, trends can merely be identified and final conclusions can definitely not be drawn yet.

It should be pointed out that the 2009 figures refer to the period from 1 May 2009 through 31 December 2009. Therefore, this series of data does not cover a whole calendar year, as opposed to the subsequent years of this synthesis report.

Cases submitted to the public prosecutor's office are assigned a main charge and possibly one or more additional charge codes (prevention codes) by the public prosecutor. However, this registration of additional charge codes does not take place everywhere. The statistics below are based on all cases for which at least one of the following charge codes as used by the public prosecutor's offices was recorded, with the classification per topic proposed by the VHRM (nature protection law, waste, manure, licences and emissions):

- Nature protection law:
 - 63A - Hunting
 - 63B - Fishing
 - 63M - Flemish Parliament Act on Forests
 - 63N - Washington Convention - protected animal species, plants and ivory
 - 64J - Flemish Parliament Act on nature conservation and the natural environment, including the prohibition of and the licence obligation for the modification of vegetations and small landscape elements
- Waste⁵⁷ :
 - 64E - Illegal dumping
 - 64F - Waste management
 - 64L - Import and transit of waste (Law of 9 July 1984)
- Manure:
 - 63I - Manure
 - 63O - Flemish Parliament Act on Manure
- Licence:
 - 64D - Commodo-Incommodo (Environmental Licence)
 - 64H - Operation of an unlicensed plant
 - 64I - Non-compliance with Vlarem legislation
- Air/water/soil/noise (emissions):

⁵⁷ There are no separate charge codes (number and letter) for infractions relating to the Flemish Parliament Act on Soils, which is why these are classified under the charge code 'waste'.

- 64A - Air and water pollution
- 64B - Carbon oxide (CO)
- 64C - Noise nuisance, decibels in urban environment (Royal Decree of 24 February 1977)
- 64G - Illegal water abstraction
- 64M - Surface water pollution
- 64N - Groundwater pollution

A selection of environmental enforcement cases was made on the basis of the above-mentioned charge codes.

First of all, a picture will be given of the total number of cases received by the public prosecutor's offices in the period 2009-2013. This will be done according to the aforementioned charge codes, and, whenever possible, by reporting authority.

Then, we will each time look at the last state of progress according to the extraction date of the cases which the public prosecutor's offices received during this period, after which we will discuss the reasons for dismissal of the cases coming under environmental enforcement in greater detail.

Finally, attention can be drawn in this section to the different partnerships between public prosecutor's offices⁵⁸. One of the results is that the majority⁵⁹ of environmental enforcement cases of the public prosecutor's offices in the province of West Flanders are dealt with by the public prosecutor's office of Kortrijk and that in East Flanders the majority of cases are treated by the public prosecutor's office of Ghent⁶⁰. In the partnership between the public prosecutor's offices of Mechelen and Turnhout all the environmental enforcement cases of Mechelen are processed by the public prosecutor's office of Turnhout⁶¹.

However, in the figures and tables below these dossiers are still registered with the respective territorial public prosecutor's offices, depending on where the infraction was committed.⁶² With the establishment of the partnerships between public prosecutor's offices the Public Prosecutor aims for increased specialisation and uniformity in the processing of environmental offences in the different districts, although local differences are still possible within the partnerships between public prosecutor's offices due to the diverse nature of environmental offences depending on the location of the district (urban areas versus rural areas).

⁵⁸ The partnership between the public prosecutor's offices of West Flanders became operational on 1 November 2010. The partnership between the public prosecutor's offices of Mechelen and Turnhout became operational on 1 January 2011. The partnership between the public prosecutor's offices of East Flanders became operational on 1 December 2011.

⁵⁹ In this case the public prosecutor's office of Kortrijk processes all the environmental offences in West Flanders (with charge codes 63A, 63N, 63O, 64A, 64D, 64F, 64G, 64H, 64I, 64J, 64L, 64M and 64N), with the exception of illegal dumping and waste incineration by private individuals, the Flemish Parliament Acts on Forests and River Fishing. (These so-called 'liveability offences' are still processed within the various territorial public prosecutor's offices).

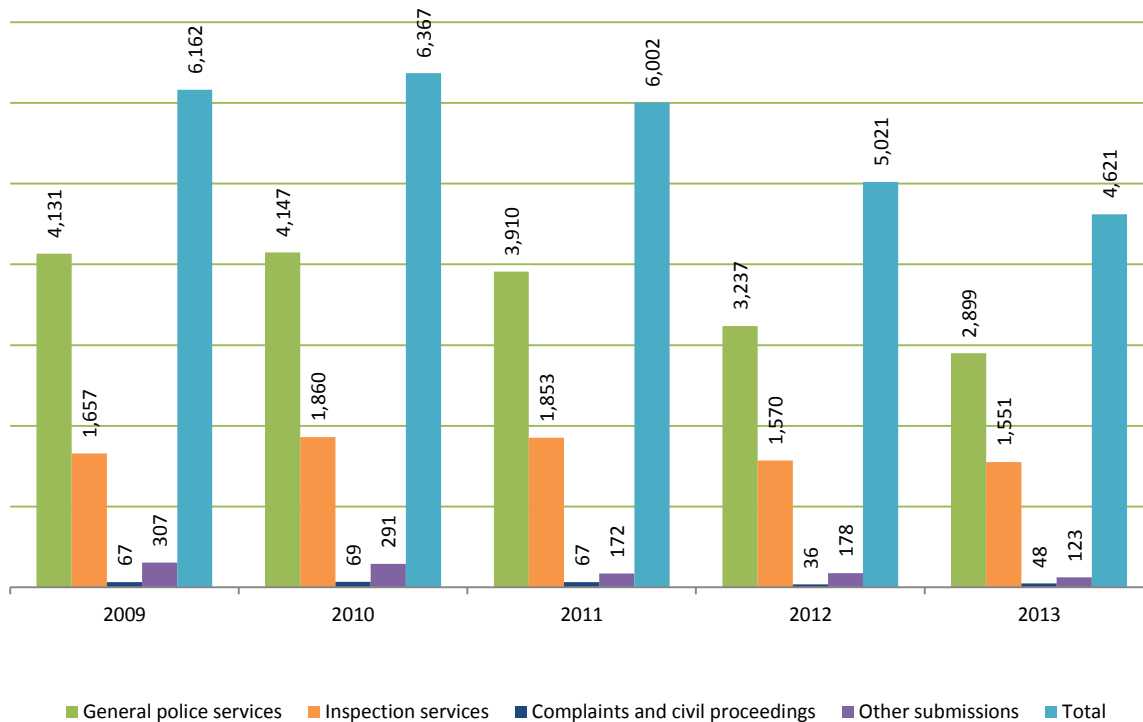
⁶⁰ The public prosecutor's office of Ghent (partnership between public prosecutor's offices in East Flanders) processes all the environmental prosecution files of the province of East Flanders (with charge codes 63A, 63M, 63N, 63O, 64A, 64D, 64F, 64G, 64H, 64I, 64J, 64L, 64M and 64N), with the exception of the dossiers regarding illegal dumping and waste incineration by private individuals, river fishing and noise nuisance (Code 64C) in keeping with the Royal Decree of 24 February 1977 (these cases are still processed by the various territorial public prosecutor's offices).

⁶¹ In this case it concerns the environmental enforcement cases with charge codes 63A, 63B, 63M, 63N, 63O, 64A, 64C, 64D, 64E, 64G, 64F, 64H, 64J, 64L, 64M and 64N.

⁶² In essence the creation of partnerships between public prosecutor's offices has hardly effected any changes to the method of registration/entry of cases within the former public prosecutor's offices. The cases with charge codes that were included in the partnership were processed by the specialised public prosecutor's office, but continued to be recorded as cases of the territorial public prosecutor's offices concerned. For part of cases that are received, the decision is taken by the specialist public prosecutor's office processing the cases. This is a result of the partnerships between public prosecutor's offices.. In this context it should be taken into account that the decisions regarding these cases are not recorded for the processing public prosecutor's office, but for the territorial public prosecutor's office, although the latter did not take the decisions.

4.1.1 Reception

The following graph shows the number of environmental enforcement cases that were recorded by the criminal divisions of the public prosecutor's offices in the Flemish Region in the period 2009-2013⁶³, per reporting authority, and subdivided into four different categories, namely general police, inspection services, complaints and civil proceedings, and other submissions.⁶⁴



Graph 61 Number of environmental enforcement cases recorded by the criminal divisions of the public prosecutor's offices in the Flemish Region per reporting authority (Source: database of Board of Procurators General - statistical analysts)

It can be deduced from the above graph that in 2013 a 25% decrease could be reported in the number of environmental enforcement cases recorded by the criminal divisions of the public prosecutor's offices in the Flemish Region compared to 2009. This decrease can mainly be found in environmental cases received by the integrated police forces. This decrease amounts to 30% compared to 2009. One possible explanation for the decrease in the number of official reports that were drawn up by the police services and referred to the public prosecutor's office is the fact that cases of 'nuisance' are now more than ever dealt with by the system of municipal administrative sanctions⁶⁵ (gemeentelijke administratieve sancties or GAS)⁶⁶. Before that, official reports were drawn up with regard to environmental infractions. A decrease in available capacity for

⁶³ For 2009 the figures refer to the entire 2009 calendar year and not just to the period from 1 May 2009, as is the case further on in this report for 2009.

⁶⁴ Cases recorded by the public prosecutors of the police courts are not included in the provided figures.

⁶⁵ Act of 13 May 1999 introducing municipal administrative sanctions. This Act was amended on 30 May 2013 and caused a great deal of controversy in the media because the age limit was lowered and the maximum fine was increased. Although this Act dates back to 1999 already, one has the impression that the municipalities only really started using the possibilities offered by this Act from 2011 onwards, since the number of official reports originating from the integrated police forces recorded by the criminal divisions from the public prosecutor's offices in the Flemish Region have decreased since 2011.

⁶⁶ However, mixed infractions still exist which can be penalised, either with a criminal penalty or with a municipal administrative sanction. An official report is still drawn up for these mixed infractions, and it is the public prosecutor that decides whether this official report is processed through the criminal court or via the municipal officer. GAS (municipal administrative sanction) in the sense of 16.6.2 §2 and 16.6.3 §2 DABM is not a mixed infraction as specified in the GAS law. By providing a GAS sanction decriminalisation is aimed at.

environmental offences in many local police districts also partially explains the falling number of official reports. However, most of the cases in the period 2009-2013 still originate from the integrated police forces. In fact, an average ratio of 65% can be established in relation to the total number of environmental enforcement cases recorded by the criminal divisions of the public prosecutor's offices in the Flemish Region in the period 2009-2013. The category 'integrated police forces' comprises both local and federal police forces. In Chapter 2 it could be concluded that the police forces drew up a total of 70,516 official reports for environment in the period 2010-2013. However, the above graph shows that during that same period only 14,193 environmental enforcement cases originating from integrated police forces were recorded by the criminal divisions of the public prosecutor's offices in the Flemish Region. This difference can be explained by the fact that the 70,516 official reports not only include the initial reports, but also the simplified official reports.

In the period 2009-2013 the inspection services each year submitted on average 30% of the environmental enforcement cases. The share of these cases in the overall number of cases rose slightly in the period 2009-2013. The inspection services are administrative services with a limited competence to draw up official reports, such as the regional environment administrations (supervisors). A small share of the total number of cases received in the period 2009-2013, i.e. on average 4%, were 'other submissions'. These are submissions from other public prosecutor's offices and courts belonging to the same judicial district that give rise to the creation of a new case. This category is also a residual category for any cases which do not fall into any of the other categories. Dossiers received from municipal supervisors and supervisors of intermunicipal associations also come under this category. In addition, on average 1% of the total number of cases in the period 2009-2013 pertained to complaints and civil proceedings. It concerns complaints from private individuals, as well as complaints from bailiffs or from private organisations and civil plaintiffs.

In 2003, a technical working group was set up within the Committee on Prosecution Policy⁶⁷, with the aim of improving insight into cases submitted to the public prosecutor's offices by the environment services of the Flemish Region. Voor die periode was er slechts één code voor de milieudiensten van het Vlaamse Gewest. However, it was decided to use, from 1 January 2005 onwards, specific codes within the reference numbers provided to the public prosecutor's offices by the environment services. Initially, the following codes were created:

- H1 : Environmental Inspectorate Division
- H2 : Forests & Green Areas
- H3 : Nature
- H4 : Water
- H5 : Manure Bank
- H6 : OVAM
- H7 : Other⁶⁸
- RW: Administration for Spatial Planning, Housing, Monuments and Landscapes

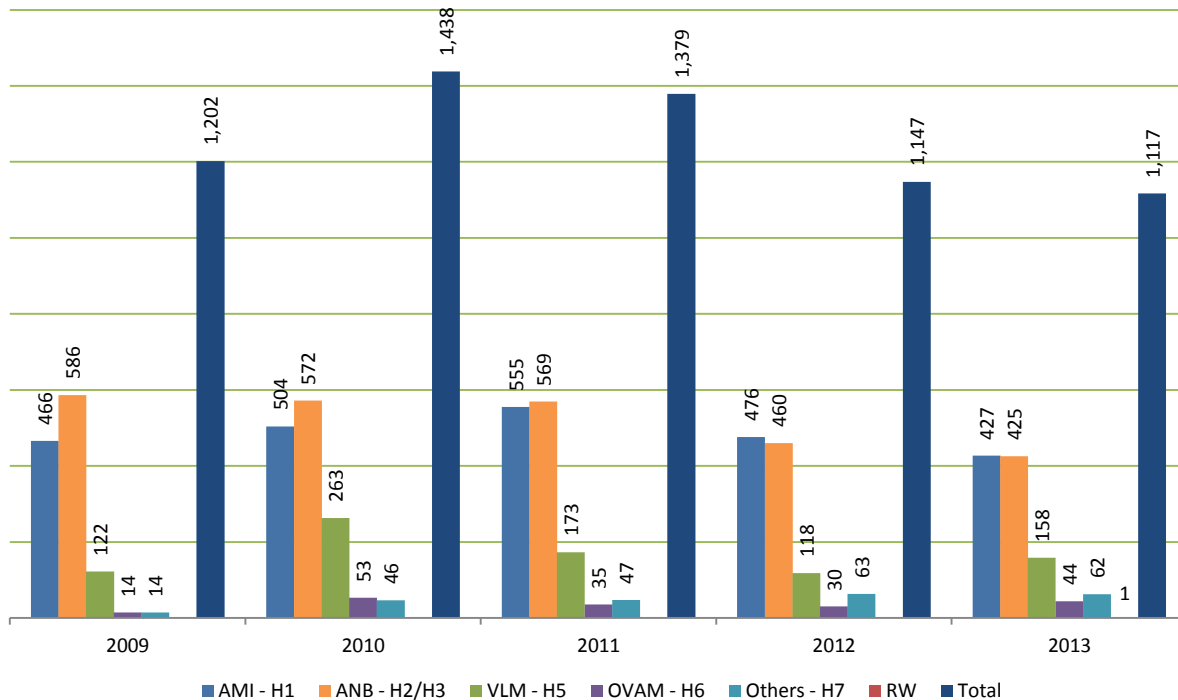
The use of these specific reference numbers made it possible to draw up the graph below which makes a further sub-division into the environmental enforcement cases that were recorded by the criminal divisions of the public prosecutor's offices in the Flemish Region in the period 2009-2013⁶⁹ per Flemish environmental

⁶⁷ The Committee on Prosecution Policy is the predecessor of the Flemish High Council of Environmental Enforcement and aimed to be a work platform regarding environment and spatial planning at the regional level where priorities were laid down and agreements were made between the official level and the public prosecutor's offices. However, this Committee did not have any legally embedded framework, as opposed to the Flemish High Council of Environmental Enforcement.

⁶⁸ H7 mainly includes official reports coming from the Administration for Roads and Traffic and the Administration for Waterways and Maritime Affairs. As there was a possibility that these services would undergo changes, but no clear information was available on the precise nature of those changes, it was decided to let them both use code H7. The Administration for Roads and Traffic would then no longer use the code 'WG', which had previously been reserved for this body.

⁶⁹ For 2009 the figures refer to the whole 2009 calendar year and not just to the period from 1 May 2009, as is the case further on in the 2009 Environmental Enforcement Report.

enforcement service. This shows how many cases each Flemish environment service submitted as reporting authority.



Graph 62 *Number of environmental enforcement cases recorded by the criminal divisions of the public prosecutor's offices in the Flemish Region per Flemish environmental enforcement service (Source: database of Board of Procurators General - statistical analysts)*

In the period 2009-2013, the criminal divisions of the public prosecutor's offices in the Flemish Region annually recorded on average 1,256.6 cases originating from the Flemish inspection services. The graph above shows that this number remained fairly stable during the studied period, with a peak in 2010 and 2011. The total number of cases recorded by the criminal divisions of the public prosecutor's offices in the Flemish Region decreased in the period 2009-2013, mainly in 2012 and 2013. However, the number of cases originating from the Flemish inspection services remained fairly stable. As a result, it can be concluded that the percentage share of cases originating from the Flemish inspection services slightly increased compared to the total number of recorded cases in the period 2009-2013. This ratio amounted to 20% in 2009, 23% in 2010, 2011 and 2012 and 24% in 2013.

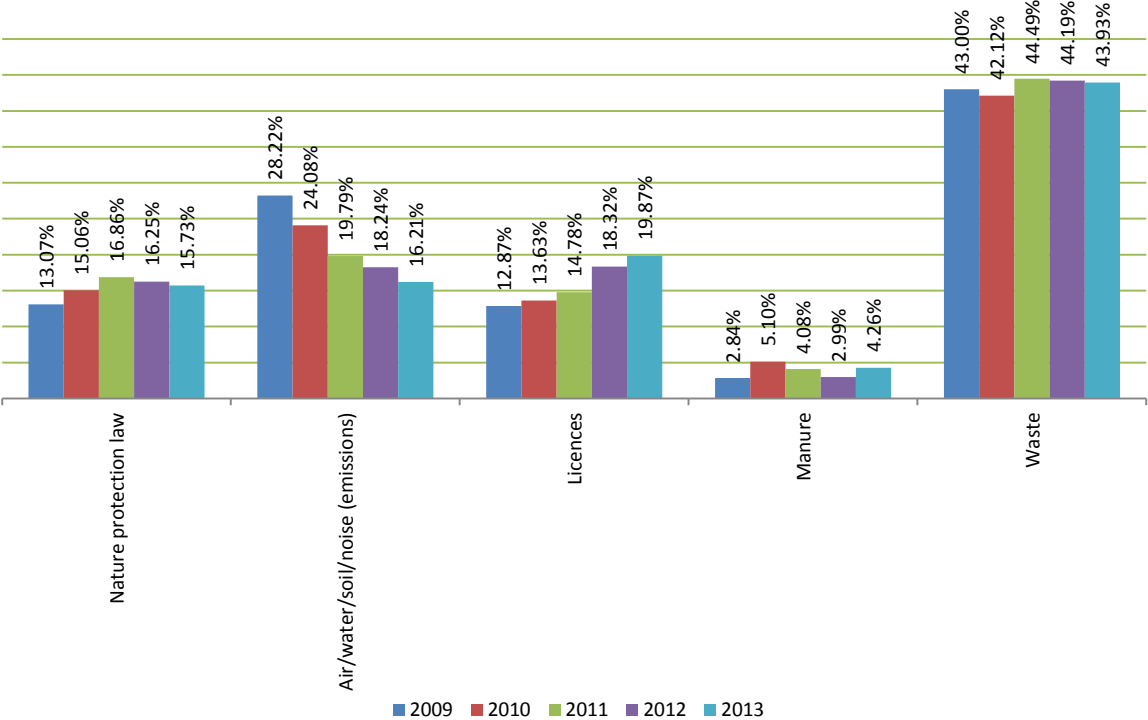
With an average 42% ratio in the period 2009-2013, most of these cases originated from ANB⁷⁰. In addition, an average of 39% of the total number of cases originating from the Flemish inspection services came from the Environmental Inspectorate Division during the period 2009-2013. VLM and OVAM record an average ratio of 13% and 4% respectively over the period 2009-2013. In the category 'Other', which includes cases from nv De Scheepvaart and the Agency for Roads and Traffic, for instance, an increase of more than 300% can be recorded in 2013 compared to 2009.

Earlier we have already provided an overview of the different charge codes that are used to record environmental enforcement cases. This allows us to present an overview in the graphs and tables below of the

⁷⁰ Currently, 'Forests & Green Areas' and 'Nature' together form the Agency for Nature and Forests (Agentschap voor Natuur en Bos or ANB). This is reflected accordingly in the above graph, where ANB combines the cases falling under H2 and H3. Since 2008, ANB has only used the code H2.

share of each charge code in the total number of environmental enforcement cases that were recorded by the criminal divisions of the public prosecutor’s offices in the Flemish Region for the period 2009-2013.

The graph below illustrates the percentages of cases recorded with the charge codes under the headings of waste, manure, licences, air/water/soil/noise (emissions) and nature protection, compared to the total number of cases recorded with one of these charge codes for the period 2009-2013.



Graph 63 Percentage share of environmental enforcement cases recorded with charge codes (Source: database of Board of Procurators General - statistical analysts)

The majority of the environmental enforcement cases recorded by the criminal divisions of the public prosecutor's offices in the Flemish Region in the period 2009-2013 referred to waste. This is an average ratio of 44%. This percentage ratio remains stable throughout the studied period. In the period 2009-2013 the cases referring to emissions (air/water/soil/noise) accounted for an average ratio of 21% compared to the total number of environmental enforcement cases. However, the share of these cases declined year after year and even decreased by 12 percentage points in 2013 compared to 2009. A reverse trend can be observed in the cases referring to licences where an increase of 7 percentage points is reported. In addition, an average 16% ratio can be calculated for the cases referring to licences in relation to the total number of environmental enforcement cases in the period 2009-2013. The share of both the cases referring to nature protection law and the cases referring to manure slightly fluctuated during the studied period. An average ratio of 15% and 4% respectively can be calculated in relation to the total number of environmental enforcement cases in the period 2009-2014.

The table below makes a further breakdown into the main charge codes for nature protection law⁷¹, emissions, licences, manure and waste, and offers an overview of the number of cases (in absolute numbers) that were recorded for each charge code in the period 2009-2013⁷².

		2009	2010	2011	2012	2013
Nature protection law	63A - Hunting	148	251	202	137	136
	63B - Fishing	61	150	189	114	137
	63M - Flemish Parliament Act on Forests	45	104	132	122	95
	63N - Washington Convention - protected animal species, plants and ivory	41	138	176	169	126
	64J - Nature Conservation and the natural environment	100	316	313	274	233
	Total	395	959	1012	816	727
Air/water/soil/noise (emissions)	64A - Air and water pollution	344	454	282	198	172
	64B - Carbon oxide	3	19	11	12	12
	64C - Noise nuisance, decibels in urban environment (Royal Decree of 24 February 1977)	393	777	620	479	264
	64G - Illegal water abstraction	2	4	1	2	1
	64M - Surface water pollution	82	227	216	164	194
	64N - Groundwater pollution	29	52	58	61	106
	Total	853	1,533	1,188	916	749
Licences	64D - Commodo-incommodo	83	177	147	25	11
	64H - Operation of an unlicensed plant	53	188	146	278	286
	64I - Non-compliance with Vlarems legislation	253	503	594	617	621
	Total	389	868	887	920	918
Manure	63I - Manure	39	69	60	44	66
	63O - Flemish Parliament Act on Manure	47	256	185	106	131
	Total	86	325	245	150	197
Waste	64E - Illegal dumping	887	1,711	1,921	1,677	1,468
	64F - Waste management	368	894	608	483	473
	64L - Importation and transit of waste	45	77	141	59	89
	Total waste	1,300	2,682	2,670	2,219	2,030
TOTAL	3,023	6,367	6,002	5,021	4,621	

Table 15 Number of cases recorded per charge code (Source: database of Board of Procurators General - statistical analysts)

⁷¹ To clarify the above data it should be mentioned that code 63N (Washington Convention - protected animal species, plants and ivory) does strictly speaking not come entirely under nature protection, since nature protection law is defined in the Environmental Enforcement Decree as the whole set of legal rules that are oriented towards the management of nature and the environment on the one hand, and nature conservation and the promotion of biological and landscape diversity, on the other, more specifically the regulations specified in Article 16.1.1, first sub-paragraph, 2°, 3°, 4°, 7°, 14°, 15° and 16°, of the Environmental Enforcement Act. Since this prevention code refers to all so-called CITES dossiers, a (limited) number of dossiers will also be included here which do not fall within the scope of DABM. The import, export and transit of CITES specimens is in fact a federal competence in accordance with Article 6 §1 III 2° of the Special Act of 8 August 1980 on institutional reform.

⁷² For 2009 only the cases recorded between 1 May 2009 and 31 December 2009 are given.

As calculated earlier, an average of 44% of the total number of environmental enforcement cases referred to waste in the period 2009-2013⁷³. The above table shows that the majority of these cases referring to waste dealt with illegal dumping (charge code 64E), namely 70% on average. The cases referring to illegal dumping constitute a substantial part not only within the heading 'Waste', but also within the total number of environmental enforcement cases recorded by the criminal divisions of the public prosecutor's offices in the Flemish Region in the period 2009-2013. This is an average ratio of 31% over the period 2009-2013. It can be concluded from this that on average almost 1/3 of the total number of environmental enforcement cases referred to illegal dumping. Two other charge codes under which a substantial number of cases were recorded are 'noise standards in an urban environment (64C)' and 'non-compliance with Vlare legislation (64I)'. It concerns an average ratio of 10% in the period 2009-2013 compared to the total number of recorded environmental enforcement cases.

A positive element is the growing number of cases under the charge code 'Operation of an unlicensed plant (64H)'. In Chapter 2 it was reported that on average 39% of the responding municipalities indicated knowing about on average 3,333 unlicensed plants on their territory in the period 2009-2013.

In the period 2009-2013, the cases with charge codes 63I 'Manure' and 63O 'Flemish Parliament Act on Manure' constituted only a small part of the total number of environmental enforcement cases recorded by the criminal divisions of the public prosecutor's offices in the Flemish Region, namely 4% on average. This could be explained by the fact that since 2006 (see below) the Flemish Land Agency can to some extent issue its own administrative fines under the Flemish Parliament Act on Manure.

The following table makes a breakdown per public prosecutor's office of the number of environmental enforcement cases that were recorded by each public prosecutor's office in the period 2009-2013⁷⁴.

	2009	2010	2011	2012	2013	TOTAL	%
ANTWERP	250	550	495	428	376	2,099	8.38%
MECHELEN	104	245	250	192	159	950	3.79%
TURNHOUT	262	531	452	371	292	1,908	7.62%
HASSELT	160	287	335	280	310	1,372	5.48%
TONGEREN	228	419	437	356	279	1,719	6.87%
BRUSSELS	227	461	418	377	338	1,821	7.27%
LEUVEN	161	380	364	293	339	1,537	6.14%
GHENT	406	901	980	757	658	3,702	14.79%
DENDERMONDE	291	671	734	591	563	2,850	11.38%
OUDENAARDE	96	282	248	270	229	1,125	4.49%
BRUGES	319	643	532	429	456	2,379	9.50%
KORTRIJK	328	678	483	396	330	2,215	8.85%
IEPER	103	182	165	160	163	773	3.09%
VEURNE	88	137	109	121	129	584	2.33%
FLANDERS	3,023	6,367	6,002	5,021	4,621	25,034	100%

Table 16 Number of environmental enforcement cases per public prosecutor's office (Source: database of Board of Procurators General - statistical analysts)

⁷³ It should be mentioned with regard to code 64L that these include EVOA dossiers, which means that it also includes cases regarding waste transit (until 1 June 2014 this was a federal matter).

⁷⁴ For 2009 only the cases recorded between 1 May 2009 and 31 December 2009 are given.

It can be deduced from the above table that 15% and 11% of the total number of environmental enforcement cases in the period 2009-2013 were recorded by the criminal divisions of the public prosecutor's offices of Ghent and Dendermonde respectively. In addition, 10% of the environmental enforcement cases were recorded by the criminal division of the public prosecutor's office of Bruges. Less than 10% of the total number of environmental enforcement cases were each time recorded by the other public prosecutor's offices in the period 2009-2013. The criminal divisions of the public prosecutor's offices of Ieper and Veurne recorded in total respectively 773 and 584 environmental enforcement cases in the period 2009-2013, which is a ratio of 3% and 2% respectively. This can simply be explained by the fact that these are smaller judicial districts.

4.1.2 State of progress

Besides the figures regarding the amount of environmental enforcement cases received, we were also able to obtain information on the state of progress of the environmental enforcement cases for the period 2009-2013. However, it should be mentioned that the data extractions each time date from January of the subsequent year. Therefore, a final decision will only be mentioned in the statistics for a specific case, if this case was received as well as processed within one and the same calendar year. Cases which are not processed within one single calendar year are mentioned under the state of progress of 'preliminary investigation' in these tables. As a result, no final conclusions can be drawn about the processing of the cases. Nevertheless, we will try to describe some trends.

The classification was made on the basis of the following states of progress:

PRELIMINARY INVESTIGATION

Cases which were still in the stage of preliminary investigation on 10 January 2013.

WITHOUT FURTHER ACTION / DISMISSAL

In cases where no further action is taken or the case is dismissed, this means that, for the time being, there will be no further prosecution of the case, and that the preliminary investigation has been concluded. The decision to take no further action is in principle always temporary. As long as the limitation period has not expired, the case can be reopened. However, it should be remarked that, statistically speaking, this category also contains the cases in which the public prosecutor decided to refer the cases to the AMMC in view of the imposition of an alternative administrative fine. As a result of this decision the limitation period expires and makes the decision final.⁷⁵

CASE REFERRED

This category comprises cases which on 10 January 2013 had been referred to another public prosecutor's office or other (legal) institutions. As long as these referred cases are not returned to the public prosecutor's office of origin, they remain in this state of progress. In other words, for this public prosecutor's office they can be considered closed. They are reopened with a different reference number by the public prosecutor's office of destination.

AMICABLE SETTLEMENT

The category 'amicable settlement' comprises cases in which an amicable settlement was proposed, the cases in which an amicable settlement was not (fully) paid yet, cases which were closed with the payment of the

⁷⁵ Currently, it is examined within the expertise network of the public prosecutor whether there is a possibility to place the cases referred to the general entity under a different heading (expiry of limitation period).

amicable settlement and in which the limitation period has expired and, finally, cases in which an amicable settlement was refused but which have not yet moved to a different state of progress.

MEDIATION IN CRIMINAL CASES

The category 'mediation in criminal cases' comprises cases in which the public prosecutor has decided to propose mediation in criminal cases to the parties involved. This category includes cases in which mediation in criminal cases was proposed and a decision is pending for the parties involved, cases which were closed following successful mediation in criminal cases and for which the limitation period has expired and, finally, cases in which the offender did not comply with the requirements, but which have not yet moved to a different state of progress.

INVESTIGATION

The category 'investigation' contains cases which have been placed under judicial investigation and which have not yet been heard in chambers with a view to the determination of the court proceedings.

CHAMBERS

This category contains cases from the stage of the determination of the court proceedings onwards, until the moment of a possible hearing before the criminal court. Cases which will not be prosecuted further maintain this state of progress.

WRIT OF SUMMONS & FURTHER PROCEEDINGS

This category contains cases in which a writ of summons has been issued or a decision following a writ of summons was taken. This includes cases in which a writ of summons, a hearing before the criminal court, a sentence, an objection, an appeal, etc. has taken place.

The table below illustrates the last state of progress as at the extraction dates for the environmental enforcement cases recorded by the criminal divisions of the public prosecutor's offices in the Flemish Region in the period 2009-2013⁷⁶. In addition, the percentage share of the different states of progress with respect to the total number of environmental enforcement cases is given.

⁷⁶ For 2009 only the cases recorded between 1 May 2009 and 31 December 2009 are given.

	Preliminary investigation		Without further action		Case referred		Amicable settlement		Mediation in criminal cases		Investigation		Chambers		With of summons and further proceedings		Unknown/error		TOTAL	
	n	%	n	%	n	%	n	%	n	%	n	%	n	%	n	%	n	%	n	%
FLANDERS 2009	1,115	36.88	1,250	41.35	214	7.08	315	10.42	3	0.10	32	1.06	3	0.00	88	2.91	3	0.10	3,023	100
FLANDERS 2010	1,687	26.50	3,505	55.05	431	6.77	415	6.52	1	0.02	42	0.66	10	0.16	272	4.27	4	0.06	6,367	100
FLANDERS 2011	1,687	28.11	3,532	58.85	285	4.25	287	4.78	1	0.02	35	0.58	5	0.08	170	2.83	/	/	6,002	100
FLANDERS 2012	1,215	24.20	3,048	60.71	233	4.64	264	5.26	0	0.02	20	0.40	1	0.02	236	4.70	3	0.06	5,021	100
FLANDERS 2013	1,276	27.61	2,685	58.10	219	4.74	231	5.00	2	0.04	15	0.32	17	0.37	174	3.77	2	0.04	4,621	100

*Table 17 Environmental enforcement cases recorded by the criminal divisions of the public prosecutor's offices in the Flemish Region.
(Source: database of Board of Procurators General - statistical analysts)*

It can be deduced from the above table that the average percentage ratio of environmental enforcement cases which were still in the state of progress of 'preliminary investigation' at the extraction dates in the period 2009-2013 was 29%. In addition it can be concluded that more than half of the cases - or 55% in the period 2009-2013 - were already dismissed or remained without further action. In the next section 'Reasons for dismissal' the reasons for taking no further action will be discussed in greater detail.

The average ratio of environmental enforcement cases that were referred on the extraction dates in the period 2009-2013 was 5%. These are cases that were referred to another public prosecutor's office or another judicial body.

In terms of amicable settlements an average ratio of 6% can be observed, although a decrease of more than 5 percentage points can be recorded in 2013 compared to 2009. A 26% decrease is also recorded in absolute numbers.

The share of cases for which a writ of summons had already been issued on the extraction dates amounted to an average of 4% of the total number of environmental enforcement cases during the period 2009-2013.

The table below gives a percentage-wise comparison between the data in the period 2009-2013 per charge code (waste, manure, licences, emissions and nature protection) and state of progress (preliminary investigation, without further action, case referred, amicable settlement, mediation in criminal cases, investigation, chambers, writ of summons and further proceedings, unknown/error) which the cases under the charge codes were in on the extraction dates.

	Waste					Manure					Licences					Emissions					Nature protection				
	2009	2010	2011	2012	2013	2009	2010	2011	2012	2013	2009	2010	2011	2012	2013	2009	2010	2011	2012	2013	2009	2010	2011	2012	2013
Preliminary investigation	29.31	21.22	13.84	18.30	22.12	30.23	16.62	20.00	21.33	23.35	60.93	50.46	46.67	41.63	44.66	34.94	24.27	28.28	22.05	23.10	43.80	26.49	33.70	23.53	27.24
Without further action	49.53	62.86	72.81	67.24	60.54	51.16	70.77	68.98	70.00	71.07	30.59	35.25	45.21	45.98	48.47	33.88	50.03	53.54	56.88	57.81	38.99	53.81	52.57	62.13	60.25
Case referred	6.92	5.67	4.99	3.83	4.58	13.95	9.23	5.31	1.33	2.54	2.06	3.00	1.13	1.52	1.42	9.14	8.22	6.23	6.77	6.81	6.58	10.11	6.42	8.58	7.84
Amicable settlement	12.46	7.08	5.28	6.13	7.24	4.66	0.92	2.04	2.67	2.54	3.08	4.03	3.16	1.85	1.09	12.19	8.61	6.82	9.28	7.48	8.35	5.74	4.25	2.70	1.79
Mediation in criminal cases	0.09	0.00	0.04	0.04	0.05	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.11	0.24	0.00	0.00	0.00	0.00	0.00	0.10	0.00	0.00	0.00
Investigation	0.23	0.41	0.73	0.27	0.20	0.00	1.23	0.00	0.00	0.00	0.51	0.46	0.23	0.65	0.22	2.93	1.30	0.84	0.44	0.53	0.51	0.31	0.49	0.50	0.69
Chambers	0.15	0.07	0.04	0.04	0.05	0.00	0.00	0.41	0.00	0.00	0.26	0.12	0.00	0.00	0.65	0.00	0.20	0.17	0.00	1.34	0.00	0.42	0.10	0.00	0.00
With of summons and further proceedings	1.31	2.57	2.27	4.15	5.22	0.00	1.23	3.27	4.67	0.51	2.31	6.68	3.61	8.15	3.38	6.45	7.31	4.12	4.48	2.67	1.77	3.02	2.47	2.57	2.20
Unknown/error	0.00	0.11	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.26	0.00	0.00	0.22	0.00	0.23	0.07	0.00	0.11	0.27	0.00	0.00	0.00	0.00	0.00
Total	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100

Table 18 Percentage-wise comparison per charge code and state of progress which the cases under the charge codes were in on the extraction dates (Source: database of Board of Procurators General - statistical analysts)

The overview given earlier shows that in the period 2009-2013 an average of 21% of the cases referring to waste were still in the state of progress of preliminary investigation on the extraction dates. On the other hand, on average 63% was left without any further action and for almost 8% an amicable settlement was proposed in the period 2009-2013. For on average 3% of all the cases referring to waste a writ of summons was issued in the period 2009-2013 on the extraction dates.

The above table shows that in the period 2009-2013 on average 22% of the cases referring to manure were still in the state of progress of preliminary investigation on the extraction dates. In addition on average 66% of the cases referring to manure were left without further action in the studied period. An amicable settlement was proposed for 2.5% on average and a writ of summons was issued for 2%.

In the period 2009-2013 an average of 38% of the cases referring to licences were still in the state of progress of preliminary investigation on the extraction dates. Besides, on average 41% was left without any further action and for almost 3% an amicable settlement was proposed in the period 2009-2013. For on average 5% of the cases referring to licences a writ of summons was issued in the period 2009-2013 on the extraction dates.

It can be deduced from the above table that in the period 2009-2013 on average 27% of the cases referring to emissions were still in the state of progress of preliminary investigation on the extraction dates. In addition on average half of the cases referring to emissions were left without further action in the studied period, whereas an amicable settlement was proposed for 9% of the cases and a writ of summons was issued in 5% of the cases.

The overview given earlier shows that in the period 2009-2013 an average of 31% of the cases referring to nature protection were still in the state of progress of preliminary investigation on the extraction dates. On the other hand, on average 54% was left without further action and for almost 5% an amicable settlement was proposed in the period 2009-2013. For on average 2% of all the cases referring to nature protection a writ of summons was issued in the period 2009-2013 on the extraction dates.

It can be concluded that with regard to all the themes, with the exception of cases referring to licences, on average more than half of the cases in the period 2009-2013 were dismissed and for at most 5% a writ of summons was already issued on the extraction date. Percentage-wise, most amicable settlements were proposed for cases referring to emissions and especially cases referring to licences were still in the state of progress of preliminary investigation on the extraction date.

4.1.3 Reasons for dismissal

As for the state of progress of the environmental enforcement cases, it was concluded in the section above that more than half of the cases - or on average 55% in the period 2009-2013 - were already dismissed or left without further action on the extraction dates. This section presents the data which provide greater insight into the cases that were left without further action for the period 2009-2013.

In relation to cases without further action it is important to take into account the reasons for dismissal. Article 28 quater, §1 of the Code of Criminal Procedure, added by the Act of 12 March 1998, obliges public prosecutors to provide reasons for their decisions. Public prosecutor's offices have a refined list of reasons for 'without further action' at their disposal, which is standard for the whole country and was formalised as a result of the Franchimont reform. This list – and the possible categories – was included in circular letter COL12/98 of the Board of Procurators General about the application of the Act of 12 March 1998.

For the figures at hand the following classification was used:

- Dismissal based on the principle of opportunity:
 - limited consequences for society

- situation regularised
 - relational offence
 - limited detriment
 - reasonable term exceeded
 - lack of precedent
 - chance events with cause
 - young age
 - disproportion criminal proceedings - social disruption
 - victim's attitude
 - compensation to the victim
 - insufficient investigation capacity
 - other priorities.
- Technical dismissal:
 - no offence
 - insufficient proof
 - limitation
 - death of the offender
 - withdrawal of the complaint (in case of offences requiring a complaint)
 - amnesty
 - incompetence
 - final judgement
 - immunity
 - absolution due to extenuating circumstances
 - absence of complaint
 - offender(s) unknown.
 - Dismissal for other reasons:
 - administrative fine
 - Praetorian probation
 - signalling of the offender.
 - Unknown/error: cases for which the reason for the absence of further action could not be determined.

The table below illustrates the types of dismissal 'without further action' (dismissal based on the principle of opportunity, technical dismissal and other reasons for dismissal) reported in the Flemish Region in relation to all the environmental enforcement cases which were in the 'without further action' state of progress on the extraction dates in the period 2009-2013.

	Opportunity (A)		Technical (B)		Other (C)		TOTAL	
	n	%	n	%	n	%	n	%
TOTAL 2009	446	35.68	486	38.88	318	25.44	1,250	100
TOTAL 2010	1,108	31.61	1,380	39.37	1,017	29.02	3,505	100
TOTAL 2011	738	20.89	1,217	34.46	1,577	44.65	3,532	100
TOTAL 2012	455	14.93	1,160	38.06	1,433	47.01	3,048	100
TOTAL 2013	424	15.79	963	35.87	1,298	48.34	2,685	100

Table 19 Number of opportunity-based dismissals, technical dismissals and dismissals for other reasons in relation to the total number of dismissed environmental enforcement cases

It can be deduced from the table above that during the period 2009-2013 an average of 55% of the environmental enforcement cases recorded by the criminal divisions of the public prosecutor's offices in the Flemish Region were dismissed without further action on the extraction dates. This dismissal percentage

strongly increased in the period 2009-2012, but slightly decreased again in 2013. This percentage amounted to 41% in 2009, 55% in 2010, 59% in 2011, 61% in 2012 and 58% in 2013.

The percentage share of technical dismissals remained fairly stable in the studied period. A striking element in the table above, however, is the decrease in the percentage share of opportunity-based dismissals. In 2009, this still amounted to almost 36% of the total number of cases dismissed without further action, whereas in 2012-2013 this amounted to only 15%. On the other hand, a strong increase can be recorded in the percentage share of cases left without further action for other reasons. In 2009, 1/4 of the number of cases without further action were dismissed for other reasons, whereas in 2013 almost half of the dismissed cases were left without further action for other reasons. In the tables below these other reasons for dismissal will be discussed in greater detail per theme. One of these reasons is indeed that the public prosecutor's office refers the case to the Environmental Enforcement, Environmental Damage and Crisis Management Division of the Department of Environment, Nature and Energy in view of the imposition of an administrative fine. The tables below show the reasons for dismissal for the total number of dismissed cases and per category of charge code (nature protection, manure, emissions, waste and licence) for the period 2009-2013.

Total	2009		2010		2011		2012		2013	
	n	%	n	%	n	%	n	%	n	%
Technical dismissals	486	38.88	1,380	39.37	1,217	34.46	1,160	38.06	963	35.87
No offence	90	7.20	266	7.59	168	4.76	161	5.28	162	6.03
Insufficient proof	237	18.96	656	18.72	651	18.43	602	19.75	474	17.65
Dropping of criminal proceedings	1	0.08	28	0.80	7	0.20	15	0.49	13	0.48
Inadmissibility of criminal proceedings	4	0.32	11	0.31	6	0.17	38	1.25	5	0.19
Offender(s) unknown	154	12.32	414	11.81	384	10.87	344	11.29	309	11.51
Other	/	/	5	0.14	1	0.03	/	/	/	/
Dismissal of cases based on the principle of opportunity	446	35.68	1,108	31.61	738	20.89	455	14.93	424	15.79
Reasons that are inherent in the nature of the infractions	288	23.04	654	18.66	368	10.42	206	6.76	122	4.54
Reasons that are inherent in the offender's person	124	9.92	310	8.84	249	7.05	198	6.50	206	7.67
Policy	31	2.48	144	4.11	119	3.37	51	1.67	96	3.58
Other	3	0.24	0	0.00	2	0.06	/	/	/	/
Dismissals for other reasons	318	25.44	1,016	28.99	1,577	44.65	1,433	47.01	1,298	48.34
Signalling of the offender	17	1.36	39	1.11	39	1.10	36	1.18	37	1.38
Praetorian probation	2	0.16	2	0.06	2	0.06	13	0.43	13	0.48
Administrative fine	299	23.92	975	27.82	1,536	43.49	1,384	45.41	1,248	46.48
Unknown/error	0	0.00	1	0.03	/	/	/	/	/	/
TOTAL	1,250	100	3,505	100	3,532	100	3,048	100	2,685	100

Table 20 Reasons for dismissal for the total number of dismissed cases (Source: database of Board of Procurators General - statistical analysts)

It can be deduced from the above table that in the period 2009-2013 an average of 37% of the total number of dismissed cases were dismissed for technical reasons. More specifically, it can be concluded that on average 19% and 12% of the dismissed cases were dismissed for 'insufficient evidence' and 'unknown offenders' respectively.

Within the framework of the opportunity-based reasons for dismissal several reasons can be put forward. The reasons that are inherent in the nature of the infractions can for instance be the limited consequences for society, but also the fact that the situation was regularised, the detriment was too small or the reasonable term was exceeded. On the basis of the above table it can be concluded that in the period 2009-2013 an average of 13% of the dismissed cases were dismissed for reasons that are inherent in the nature of the infractions. However, a clear decrease can be observed in the cases that are dismissed without further action. In 2009, 1/4 of the dismissed cases were left without further action for reasons that are inherent in the nature of the infractions, whereas in 2013 this decreased to below 5%. In addition, 8% of the dismissed cases were dismissed for reasons inherent in the offender's person. This may relate, among other things, to the absence of the previous reasons, chance events with cause in specific circumstances, the offender's young age, or the fact that there is a disproportion between the criminal proceedings and the social disruption, the victim's attitude or the compensation to the victim. Also, during the period 2009-2013 on average 3% of the dismissed cases were dismissed for opportunity-based reasons relating to the policy. This may have to do with the limited criminal investigation capacity or the fact that other priorities were set by the public prosecutor's office. From the previous section it was apparent that the total number of cases recorded with the criminal divisions of the public prosecutor's offices in the Flemish Region in the studied period amounted to 25,034 and the total number of opportunity-based dismissals during that same period to 3,171. Therefore, 13% of the total number of environmental enforcement cases that were recorded by the criminal divisions at the public prosecutor's offices in the Flemish Region in the period 2009-2013 were dismissed for opportunity-based reasons.

As indicated earlier, the dismissal for other reasons may relate to the referral of a case to the Environmental Enforcement, Environmental Damage and Crisis Management Division for the imposition of an administrative fine, to the Praetorian probation or to the signalling of the offender. The above table indicates that in the period 2009-2013 on average 39% of the dismissed cases were dismissed for other reasons of dismissal without further action. This percentage increased during that period. In 2009, almost 1/4 of the dismissed cases were left without further action for other reasons, whereas in 2013 this was almost half of the dismissed cases. What is interesting in this framework is that no less than on average 37% of the dismissed cases were dismissed in view of the imposition of an administrative fine in the period 2009-2013.

This means that no less than 21% on average (average percentage ratio in the period 2009-2013) of the total number of environmental enforcement cases recorded by the public prosecutor's offices in the period 2009-2013 were dismissed in view of the imposition of an administrative fine.⁷⁷ This ratio amounted to 27% in 2013, 28% in 2012, 26% in 2011, 15% in 2010 and 10% in 2009. Therefore, compared to 2009-2010, a strong percentage increase can be recorded, although it remains fairly stable in the period 2011-2013. A similar picture can be recorded in absolute figures. Over the period 2009-2013 the largest number of cases were dismissed in view of the imposition of an administrative fine in 2011, namely 1,536 cases. However, in 2012 and 2013 the absolute number of cases that were referred for the imposition of an administrative fine decreased again from 1,384 in 2012 to 1,248 in 2013. The total number of cases recorded by the criminal divisions of the public prosecutor's offices in the Flemish Region also decreased in 2012 and 2013 compared to the previous years.

The tables below reflect the reasons for dismissal per category of charge code in the period 2009-2013.

⁷⁷ Of the total number of environmental enforcement cases in the studied period (namely 25,034) 5,442 cases were dismissed in view of the imposition of an administrative fine. This means that in the studied period 21.7% of cases in total were dismissed in view of the imposition of an administrative fine.

Nature protection	2009		2010		2011		2012		2013	
	n	%	n	%	n	%	n	%	n	%
Technical dismissals	51	33.12	168	32.56	162	30.45	213	42.01	131	29.91
No offence	11	7.14	22	4.26	25	4.70	24	4.73	22	5.02
Insufficient proof	12	7.79	65	12.60	57	10.71	64	12.62	42	9.59
Dropping of criminal proceedings	0	0.00	2	0.39	0	0.00	2	0.39	/	/
Inadmissibility of criminal proceedings	2	1.30	0	0.00	2	0.38	17	3.35	/	/
Offender(s) unknown	26	16.88	79	15.31	78	14.66	106	20.91	67	15.30
Other	/	/	0	0.00	0	0.00	/	/	/	/
Dismissal of cases based on the principle of opportunity	62	40.26	199	38.57	119	22.37	93	18.34	77	17.58
Reasons that are inherent in the nature of the infractions	41	26.36	116	22.48	30	5.64	37	7.30	16	3.65
Reasons that are inherent in the offender's person	15	9.74	52	10.08	39	7.33	41	8.09	35	7.99
Policy	6	3.90	31	6.01	49	9.21	15	2.96	26	5.94
Other	0	0.00	0	0.00	1	0.19	/	/	/	/
Dismissals for other reasons	41	26.62	149	28.88	251	47.18	201	39.64	230	52.51
Signalling of the offender	0	0.00	1	0.19	1	0.19	2	0.39	/	/
Praetorian probation	0	0.00	0	0.00	0	0.00	3	0.59	4	0.91
Administrative fine	41	26.62	148	28.68	250	46.99	196	38.66	226	51.60
Unknown/error	0	0.00	0	0.00	/	/	/	/	/	/
TOTAL	154	100	516	100	532	100	507	100	438	100

Table 21 Reasons for dismissal for the number of dismissed nature protection cases (Source: database of Board of Procurators General - statistical analysts)

It can be deduced from the table above that in the period 2009-2013 an average of 34% of the dismissed nature protection cases were dismissed for technical reasons, mainly because the offenders were unknown (average of 17% of dismissed nature protection cases). In addition, on average 27% of the dismissed nature protection cases were dismissed for opportunity-based reasons, although the percentage of the opportunity-based dismissals strongly declined in the studied period. In 2009, no less than 40% of the dismissed nature protection cases were dismissed for opportunity-based reasons. In 2013, this percentage decreased to just over 17%. A reverse trend can be observed in the other reasons of dismissal without further action, more specifically the dismissal in view of the imposition of an administrative fine. In 2009, 27% of the dismissed nature protection cases were dismissed in view of the imposition of an administrative fine. In 2013, this number already amounted to more than half of the dismissed nature protection cases. At the same time it can be established that on average 21% of the total number of nature protection cases recorded by the criminal divisions of the public prosecutor's offices in the Flemish Region in the period 2009-2013 were dismissed in view of the imposition of an administrative fine, which corresponds to the average of the total number of environmental enforcement cases that were dismissed in view of the imposition of an administrative fine.

Manure	2009		2010		2011		2012		2013	
	n	%	n	%	n	%	n	%	n	%
Technical dismissals	1	2.27	27	11.74	7	4.14	5	4.76	6	4.29
No offence	1	2.27	22	9.52	0	0.00	2	1.90	3	2.14
Insufficient proof	0	0.00	3	1.30	7	4.14	2	1.90	2	1.43
Dropping of criminal proceedings	0	0.00	0	0.00	0	0.00	/	/	/	/
Inadmissibility of criminal proceedings	0	0.00	0	0.00	0	0.00	/	/	/	/
Offender(s) unknown	0	0.00	2	0.87	0	0.00	1	0.95	1	0.71
Other	0	0.00	0	0.00	0	0.00	/	/	/	/
Dismissal of cases based on the principle of opportunity	14	31.82	100	43.48	50	29.59	3	2.86	8	5.71
Reasons that are inherent in the nature of the infractions	13	29.65	75	32.61	30	17.75	2	1.90	3	2.14
Reasons that are inherent in the offender's person	1	2.27	9	3.91	10	5.92	1	0.95	4	2.86
Policy	0	0.00	16	6.96	10	5.92	/	/.	1	0.71
Other	0	0.00	0	0.00	0	0.00	/	/	/	/
Dismissals for other reasons	29	65.91	103	44.78	112	66.27	97	92.38	126	90.00
Signalling of the offender	0	0.00	0	0.00	0	0.00	/	/	/	/
Praetorian probation	0	0.00	0	0.00	0	0.00	/	/	/	/
Administrative fine	29	65.91	103	44.78	112	66.27	97	92.38	126	90.00
Unknown/error	0	0.00	0	0.00	/	/	/	/	/	/
TOTAL	44	100	230	100	169	100	105	100	140	100

Table 22 Reasons for dismissal for the number of dismissed manure cases (Source: database of Board of Procurators General - statistical analysts)

The above table provides an overview of the reasons for dismissal for environmental enforcement cases referring to manure in the period 2009-2013. During the studied period only a small number of the dismissed cases were left without further action for technical reasons, i.e. barely 5% on average. The share of the opportunity-based dismissals is reasonably low as well, namely 23% on average. It is also clear that the share of dismissals for opportunity-based reasons strongly declined in the period 2009-2013. In 2009, this still amounted to around 32%, whereas in 2013 it decreased to almost 6%. Most of the dismissed manure cases were dismissed in view of the imposition of an administrative fine. In the period 2009-2013, this type of dismissal amounted to 72% on average. At the same time it can be concluded that on average 48% of the total number of manure cases recorded by the criminal divisions of the public prosecutor's offices in the Flemish Region in the period 2009-2013 were dismissed in view of the imposition of an administrative fine. This may be explained by the fact that the Flemish Land Agency itself imposes fines and that these cases are returned to the Flemish Land Agency by the public prosecutor's offices, as well as by the fact that during the studied period several manure cases (violation of Manure Flemish Parliament Act) were also referred to the AMMC.

Air / water / soil / noise (emissions)	2009		2010		2011		2012		2013	
	n	%	n	%	n	%	n	%	n	%
Technical dismissals	145	50.17	407	53.06	262	41.19	221	42.42	192	44.34
No offence	47	16.26	137	17.86	66	10.38	52	9.98	44	10.16
Insufficient proof	59	20.42	131	17.08	114	17.92	94	18.04	63	14.55
Dropping of criminal proceedings	0	0.00	15	1.96	4	0.63	9	1.73	6	1.39
Inadmissibility of criminal proceedings	1	0.35	8	1.04	1	0.16	10	1.92	1	0.23
Offender(s) unknown	38	13.15	115	14.99	77	12.11	56	10.75	78	18.01
Other	0	0.00	1	0.13	0	0.00	/	/	/	/
Dismissal of cases based on the principle of opportunity	119	41.18	216	28.16	151	23.74	87	16.70	89	20.55
Reasons that are inherent in the nature of the infractions	63	21.80	109	14.21	69	10.85	34	6.53	31	7.16
Reasons that are inherent in the offender's person	47	16.27	81	10.56	68	10.69	47	9.02	36	8.31
Policy	9	3.11	26	3.39	14	2.20	6	1.15	22	5.08
Other	0	0.00	0	0.00	0	0.00	/	/	/	/
Dismissals for other reasons	25	8.65	144	18.77	223	35.06	213	40.88	152	35.10
Signalling of the offender	0	0.00	4	0.52	0	0.00	1	0.19	2	0.46
Praetorian probation	0	0.00	0	0.00	0	0.00	2	0.38	/	/
Administrative fine	25	8.65	140	18.25	223	35.06	210	40.31	150	34.64
Unknown/error	0	0.00	0	0.00	/	/	/	/	/	/
TOTAL	289	100	767	100	636	100	521	100	433	100

Table 23 Reasons for dismissal for the number of dismissed cases referring to air/water/soil/noise (emissions) (Source: database of Board of Procurators General - statistical analysts)

It can be deduced from the table above that most of the dismissed cases referring to air/water/soil/noise in the period 2009-2013 were dismissed for technical reasons, namely on average 46%. In addition, on average 26% was dismissed for opportunity-based reasons and 28% for other reasons (mainly the dismissal in view of the imposition of an administrative fine). At the same time it can be concluded that on average 15% of the total number of cases referring to air/water/soil/noise recorded by the criminal divisions of the public prosecutor's offices in the Flemish Region in the period 2009-2013 were dismissed in view of the imposition of an administrative fine.

Waste	2009		2010		2011		2012		2013	
	n	%	n	%	n	%	n	%	n	%
Technical dismissals	272	42.24	723	42.88	734	40.91	628	42.09	531	43.21
No offence	25	3.88	73	4.33	61	3.40	62	4.16	49	3.99
Insufficient proof	156	24.22	431	25.56	455	25.36	389	26.07	317	25.79
Dropping of criminal proceedings	1	0.16	10	0.59	3	17.00	4	0.27	7	0.57
Inadmissibility of criminal proceedings	0	0.00	1	0.06	2	17.00	2	0.13	3	0.24
Offender(s) unknown	90	13.98	207	12.28	212	11.82	171	11.46	155	12.61
Other	/	/	1	0.06	0	0.00	/	/	/	/
Dismissal of cases based on the principle of opportunity	210	32.61	509	30.19	350	19.51	216	14.48	208	16.92
Reasons that are inherent in the nature of the infractions	136	21.12	294	17.44	185	10.31	93	6.23	51	4.15
Reasons that are inherent in the offender's person	57	8.85	156	9.25	120	6.69	96	6.43	119	9.68
Policy	15	2.33	59	3.50	44	2.45	27	1.81	38	3.09
Other	2	0.31	0	0.00	1	0.06	/	/	/	/
Dismissals for other reasons	162	25.16	453	26.87	710	39.58	648	43.43	490	39.87
Signalling of the offender	17	2.64	34	2.02	38	2.12	31	2.08	35	2.85
Praetorian probation	2	0.31	1	0.06	2	0.11	4	0.27	4	0.33
Administrative fine	143	22.20	418	24.79	670	37.35	613	41.09	451	36.70
Unknown/error	0	0.00	1	0.06	/	/	/	/	/	/
TOTAL	644	100	1,686	100	1,794	100	1,492	100	1,229	100

Table 24 Reasons for dismissal for the number of dismissed waste cases (Source: database of Board of Procurators General - statistical analysts)

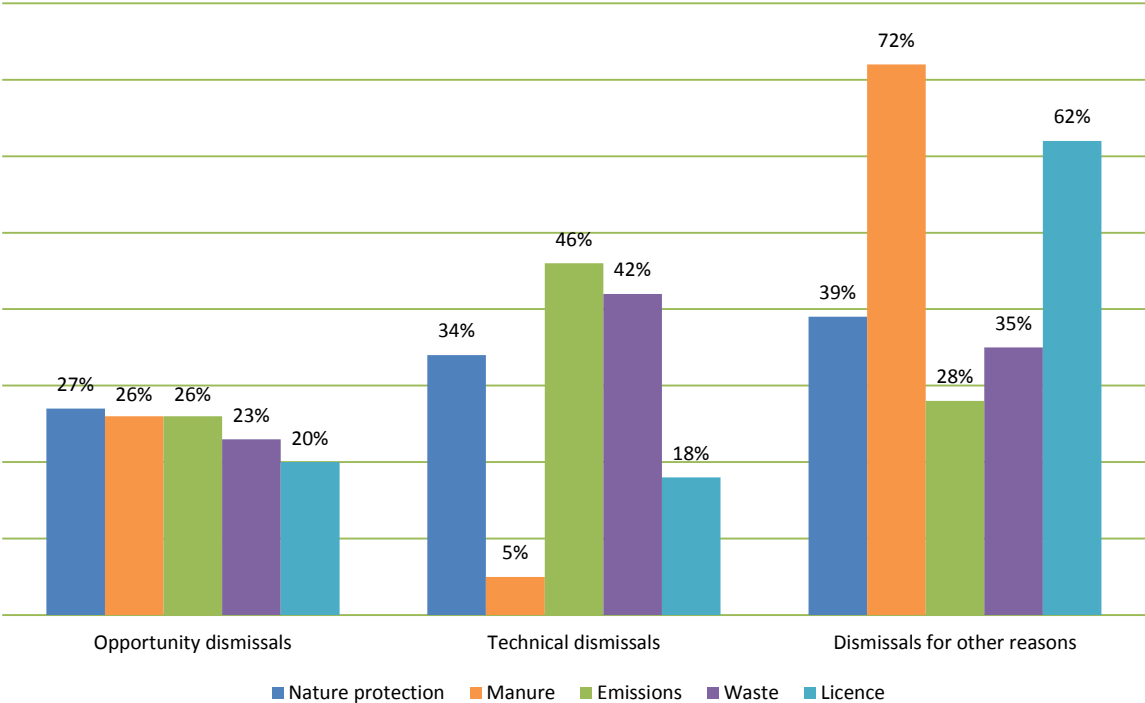
The above table shows that in the period 2009-2013 on average 42% of the dismissed cases referring to waste were dismissed without further action for technical reasons. This was mainly owing to the fact that insufficient evidence was available (average of 25%) and the offenders were unknown (average of 12%). Contrary to the share of technical dismissals which remained relatively stable during the studied period, a decrease in the opportunity-based dismissals can be recorded in the period 2009-2013 for the cases referring to waste. In 2009, this share still amounted to almost 33% of the number of dismissed cases referring to waste. In 2013, this fell to almost 17%. On the other hand, the share of other reasons for dismissal without further action increased in the studied period. In 2009, 1/4 of the dismissed cases referring to waste were dismissed for other reasons. In 2013, this share amounted to almost 40%. At the same time it can be concluded that on average 1/5 of the total number of cases referring to waste recorded by the criminal divisions of the public prosecutor's offices in the Flemish Region in the period 2009-2013 were dismissed in view of the imposition of an administrative fine.

Licence	2009		2010		2011		2012		2013	
	n	%	n	%	n	%	n	%	n	%
Technical dismissals	17	14.28	55	17.97	52	12.97	93	21.99	103	23.15
No offence	6	5.04	12	3.92	16	3.99	21	4.96	44	9.89
Insufficient proof	10	8.40	26	8.50	18	4.49	53	12.53	50	11.24
Dropping of criminal proceedings	0	0.00	1	0.33	0	0.00	/	/	/	/
Inadmissibility of criminal proceedings	1	0.84	2	0.65	0	0.00	9	2.13	1	0.22
Offender(s) unknown	0	0.00	11	3.59	17	4.24	10	2.36	8	1.80
Other	/	/	3	0.98	0	0.25	/	/	/	/
Dismissal of cases based on the principle of opportunity	41	34.45	84	27.45	68	16.96	56	13.24	42	9.44
Reasons that are inherent in the nature of the infractions	4	3.36	60	19.61	54	13.47	40	9.46	21	4.72
Reasons that are inherent in the offender's person	35	29.41	12	3.92	12	2.99	13	3.07	12	2.70
Policy	1	0.84	12	3.92	2	0.50	3	0.71	9	2.02
Other	1	0.84	0	0.00	0	0.00	/	/	/	/
Dismissals for other reasons	61	51.26	167	54.58	281	70.07	274	64.78	300	67.42
Signalling of the offender	0	0.00	0	0.00	0	0.00	2	0.47	/	/
Praetorian probation	0	0.00	1	0.33	0	0.00	4	0.95	5	1.12
Administrative fine	61	51.26	166	54.25	281	70.07	268	63.36	295	66.29
Unknown/error	0	0.00	0	0.00	/	/	/	/	/	/
TOTAL	119	100	306	100	401	100	423	100	445	100

Table 25 Reasons for dismissal for the number of dismissed cases referring to licences (Source: database of Board of Procurators General – statistical analysts)

The above table provides an overview of the reasons for dismissal for environmental enforcement cases referring to licences in the period 2009-2013. During the studied period only a small number of the dismissed cases were left without further action for technical reasons, i.e. 18% on average. The share of opportunity-based dismissals amounted to 20% on average in the period 2009-2013. However, it can be remarked that the share of dismissals for opportunity-based reasons strongly declined in the period 2009-2013. In 2009, this still amounted to around 34%, whereas in 2013 it decreased to almost 10%. Most of the dismissed cases referring to licences were dismissed in view of the imposition of an administrative fine. In the period 2009-2013, this type of dismissal amounted to 62% on average. At the same time it can be concluded that on average 26% of the total number of cases referring to licences recorded by the criminal divisions of the public prosecutor's offices in the Flemish Region in the period 2009-2013 were dismissed in view of the imposition of an administrative fine.

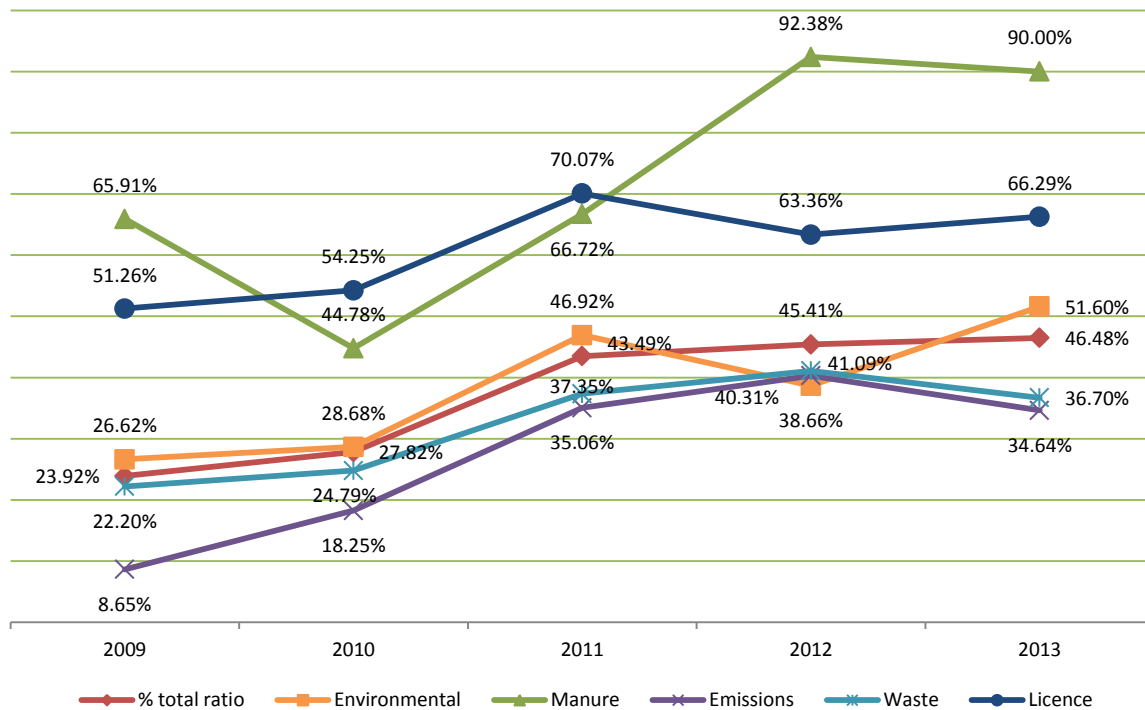
When comparing the different themes with each other in the context of the average percentages of technical dismissals, opportunity-based dismissals and dismissals for other reasons in relation to the total number of dismissed cases of these themes in the overall period 2009-2013, the following picture can be provided.



Graph 64 Percentage share of technical dismissals, opportunity-based dismissals and dismissals for other reasons in relation to the total number of dismissed cases per theme (Source: database of Board of Procurators General - statistical analysts)

It is apparent from the above graph that in the studied period the cases referring to manure and licences are percentage-wise dismissed the most for other reasons (including the dismissal in view of the imposition of an administrative fine). For both themes on average more than half of the dismissed cases were dismissed without further action for other reasons. Next to that, the technical dismissals are recorded the most percentage-wise for cases referring to waste and emissions (respectively 42% and 46% of the total number of dismissed cases were dismissed for technical reasons.) Percentage-wise, cases referring to nature protection and emissions were dismissed the most for opportunity-based reasons in the period 2009-2013, although the percentage ratio in the overall studied period for all themes is 20% to 30%.

More specifically with regard to the dismissals in view of the imposition of administrative fines the following ratio can be given, i.e. the percentage ratio of the number of cases referring to the different themes that were dismissed in view of the imposition of an administrative fine in relation to the number of dismissed cases of the different themes compared to the percentage of the total number of cases that were dismissed in view of the imposition of an administrative fine in relation to the total number of dismissed cases in the period 2009-2013.



Graph 65 Percentage ratio of the number of cases referring to the different themes which were dismissed in view of the imposition of an administrative fine in relation to the number of dismissed cases of the different themes compared to the percentage of the total number of cases dismissed in view of the imposition of an administrative fine in relation to the total number of dismissed cases (Source: database of Board of Procurators General - statistical analysts)

The graph above shows that, percentage-wise, especially the cases referring to manure and licences were dismissed in view of the imposition of an administrative fine, since the percentages of the themes 'manure' and 'licences' far exceed the total percentage ratio for the entire studied period. In addition, the cases referring to waste and emissions were dismissed the least in view of the imposition of an administrative fine in relation to the total percentage ratio. This is somewhat surprising, since the Classification Document provides that environmental offences regarding emissions are in principle to be submitted to the AMMC in view of the imposition of an administrative fine.

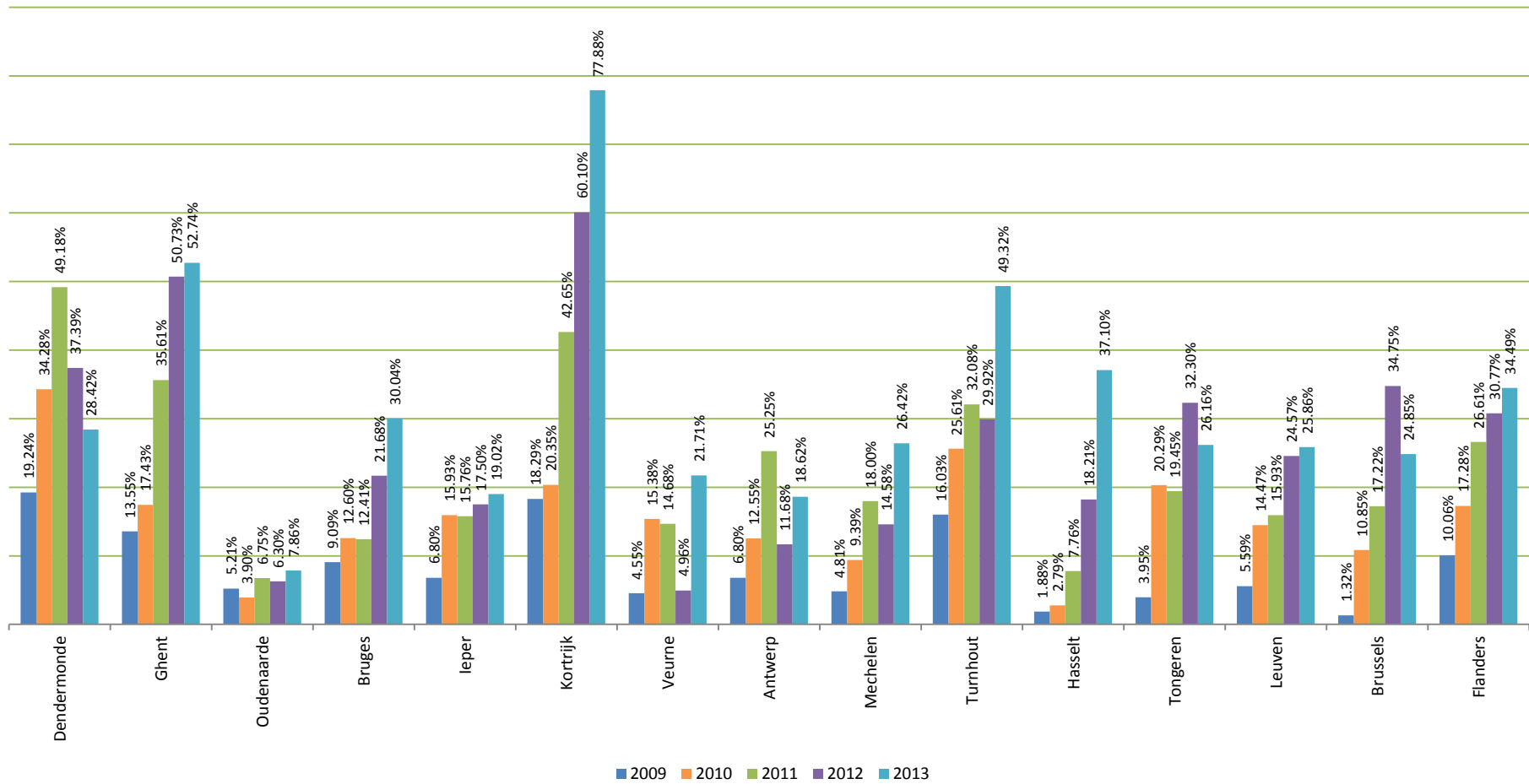
Chapter 4.2 gives an evaluation of the administrative sanctions policy and indicates, among other things, how the Environmental Enforcement, Environmental Damage and Crisis Management Division (the AMMC) handles the cases referred to this Division of the LNE Department by the public prosecutor's offices.

4.2 Evaluation of the sanctions policy pursued by the Environmental Enforcement, Environmental Damage and Crisis Management Division of the Department of Environment, Nature and Energy

DABM stipulates that exclusive and alternative administrative fines shall be imposed by the regional body that was assigned to that end by the Government of Flanders, namely the Environmental Enforcement, Environmental Damage and Crisis Management Division (afdeling Milieuhandhaving, Milieuschade en Crisisbeheer or AMMC) of the Department of Environment, Nature and Energy. In 2012, a new instrument was introduced in addition to the exclusive and alternative administrative fines, namely the administrative transaction. This administrative transaction can be regarded as some type of 'summary proceedings' or 'amicable settlement' which can be proposed by the AMMC for certain cases (with regard to both environmental offences and environmental infringements). In this section it will be analysed how this administrative sanction component was implemented in the period 2009-2013.

4.2.1 Processing of environmental offences

In the framework of the processing of environmental offences by the AMMC it was asked how many official reports the AMMC received from each of the public prosecutor's offices in the period 2009-2013. This is reflected in the following graph.



Graph 66 Number of official reports received by the AMMC

It can be deduced from the above graph that in the period 2009-2013 the AMMC received a total of 6.140 official reports from the criminal divisions of the public prosecutor's offices in the Flemish Region in view of the imposition of an alternative administrative fine. In 2009, the AMMC received barely 304 cases, which can be explained by the fact that the Environmental Enforcement Act did not become effective until May 2009. The number of cases increased substantially in 2010 and 2011 to 1,100 and 1,597 cases respectively, but has stabilised since then. The AMMC received 1,545 cases in 2012 and 1,594 in 2013.

Despite the fact that each public prosecutor's office in the Flemish Region uses the possibility of referring cases to the AMMC in view of the imposition of an alternative administrative fine, strong regional differences can be observed in the number of referred cases. Apart from the size of the public prosecutor's office this has to do with the fact that it continues to be the authority of the public prosecutor to decide whether or not to refer cases to the AMMC. In the future these regional differences will probably be mitigated by the (plans for the) design of a policy memorandum for processing environmental offences within the public prosecutor's office.

The table below gives the percentage share of cases which each public prosecutor's office delivered to the AMMC in the period 2009-2013. This fact is calculated on the basis of the total number of environmental enforcement cases recorded by the criminal divisions of the public prosecutor's offices in the Flemish Region in the studied period (see previous section) and the number of cases received by the AMMC in the period 2009-2013. In this context it should be remarked that not all the official reports that were recorded in a specific year by the public prosecutor's offices were actually processed in that same year. In fact, the public prosecutor's offices have a period of 180 days (can be extended once by 180 days) to refer the case to the AMMC.

	2009	2010	2011	2012	2013
	% share of official reports referred to the AMMC	% share of official reports referred to the AMMC	% share of official reports referred to the AMMC	% share of official reports referred to the AMMC	% share of official reports referred to the AMMC
Dendermonde	19,24%	34,28%	49,18%	37,39%	28,42%
Ghent	13,55%	17,43%	35,61%	50,73%	52,74%
Oudenaarde	5,21%	3,90%	6,75%	6,30%	7,86%
Bruges	9,09%	12,60%	12,41%	21,68%	30,04%
Ieper	6,80%	15,93%	15,76%	17,50%	19,02%
Kortrijk	18,29%	20,35%	42,65%	60,10%	77,88%
Veurne	4,55%	15,38%	14,68%	4,96%	21,71%
Antwerp	6,80%	12,55%	25,25%	11,68%	18,62%
Mechelen	4,81%	9,39%	18,00%	14,58%	26,42%
Turnhout	16,03%	25,61%	32,08%	29,92%	49,32%
Hasselt	1,88%	2,79%	7,76%	18,21%	37,10%
Tongeren	3,95%	20,29%	19,45%	32,30%	26,16%
Leuven	5,59%	14,47%	15,93%	24,57%	25,86%
Brussels	1,32%	10,85%	17,22%	34,75%	24,85%
Flanders	10,06%	17,28%	26,61%	30,77%	34,49%

Table 26 Percentage share of cases referred to the AMMC

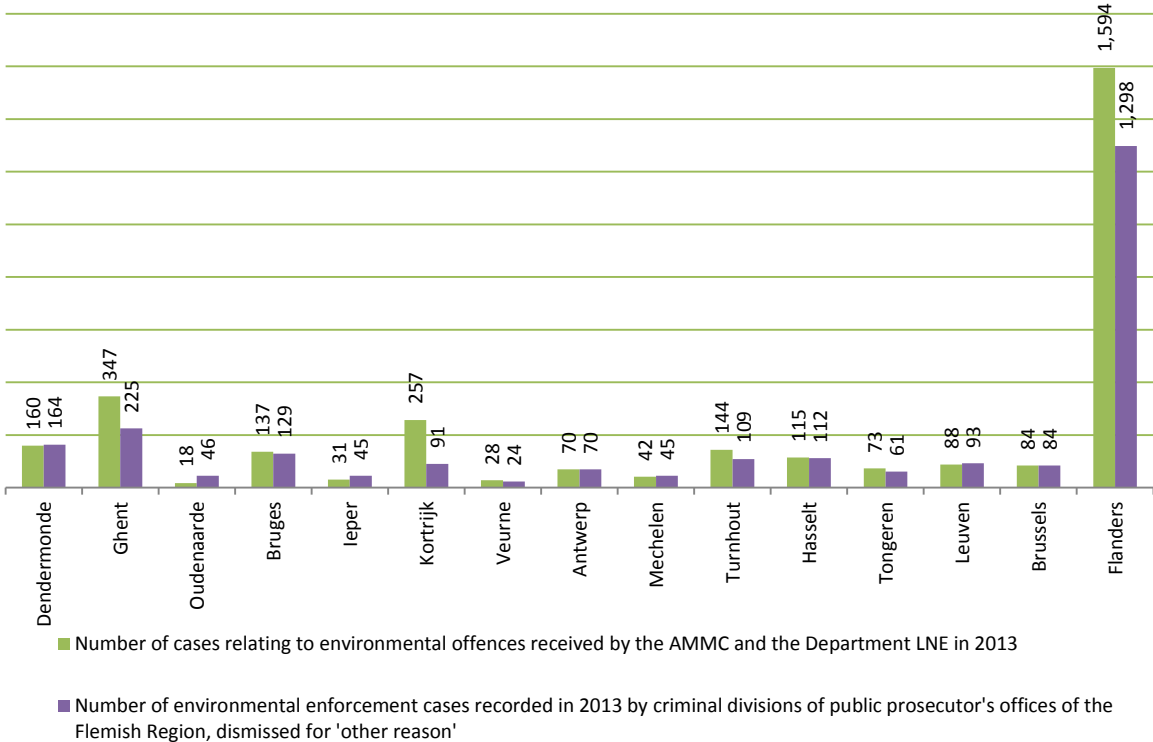
It can be deduced from the above table that - despite the fact that the criminal divisions of the public prosecutor's offices in the Flemish Region recorded a declining number of environmental enforcement cases in the period 2009-2013 - the percentage share of cases referred to the AMMC in view of the imposition of an

alternative administrative fine increased each time during the studied period. On average, the percentage share amounted to around 24% (average percentage ratio)⁷⁸ of the number of recorded environmental enforcement cases in the period 2009-2013, although a difference of more than 24 percentage points can be observed between the 2009 percentage share (10%) and the 2013 percentage share (over 34%). It can be deduced from this that the rising trend, identified and recorded in the 2012 Environmental Enforcement Report, continued in 2013. This increase in the percentage share of cases referred to the AMMC can be recorded for the criminal divisions of all the public prosecutor's offices, although a strong increase is reported for the public prosecutor's offices of Ghent, Kortrijk and Turnhout. The public prosecutor's offices of Ghent and Kortrijk have referred even more than half of the recorded environmental enforcement cases to the AMMC since 2012.

NOTE

The figures above referring to the number of cases submitted by the public prosecutor's offices and received by AMMC are based on the figures which the VHRM received from the AMMC. When we compare these figures to the cases that were dismissed by the public prosecutor's offices - on the basis of the figures which the VHRM received from the public prosecutor's offices - for 'other reasons' (including the referral in view of the imposition of an administrative fine, in addition to the Praetorian probation and the signalling of the offender), a certain discrepancy may be observed. This is reflected in the following graph.

This discrepancy is reflected for 2013 in the graph below. The previous environmental enforcement reports showed this discrepancy for each studied year.



Graph 67 Discrepancy between cases referred to the AMC by the public prosecutor's offices in view of the imposition of an administrative fine and cases received by the AMMC in 2013

⁷⁸ This average ratio of 24% in the period 2009-2013 could be calculated because the percentage amounted to 10.06% in 2009, 17.28% in 2010, 26.61% in 2011, 30.77% in 2012 and 34.49% in 2013.

The above graph shows that the AMMC received no less than 296 cases more than the number that was dismissed by the public prosecutor's offices for 'other reasons' in 2013. This can also be observed for the individual public prosecutor's offices of Ghent, Bruges, Kortrijk, Veurne, Hasselt, Tongeren and Turnhout. For 2012 it was calculated that the AMMC indicated having received 112 cases more than the cases referred to it by the public prosecutor's offices. It concerned 20 cases for 2011, 84 cases for 2010 and 5 more cases for 2009.

On the other hand, there are public prosecutor's offices which indicated having dismissed more cases in 2013 for 'other reasons' than the number of cases which the AMMC indicated having received from that specific public prosecutor's office, like for instance Oudenaarde, Ieper, Mechelen, Leuven and Dendermonde. In the previous Environmental Enforcement Reports a (smaller) difference could be recorded as well. In this context it should be mentioned that the figures of the public prosecutor's offices may be an overestimation, since the above data pertain to those cases that were dismissed for 'other reasons'. These 'other reasons' not only include the referral in view of the imposition of an administrative fine, but also those dismissals that are related to the Praetorian probation and the signalling of the offender. Moreover, the referral in view of the imposition of an administrative fine implies that the case was referred to either the AMMC or to the Manure Bank. There may thus be slight differences.⁷⁹ This means that the difference between the number of cases which the AMMC indicated having received and the number of cases referred by the public prosecutor's offices in view of the imposition of an administrative fine in reality even exceeds 517.

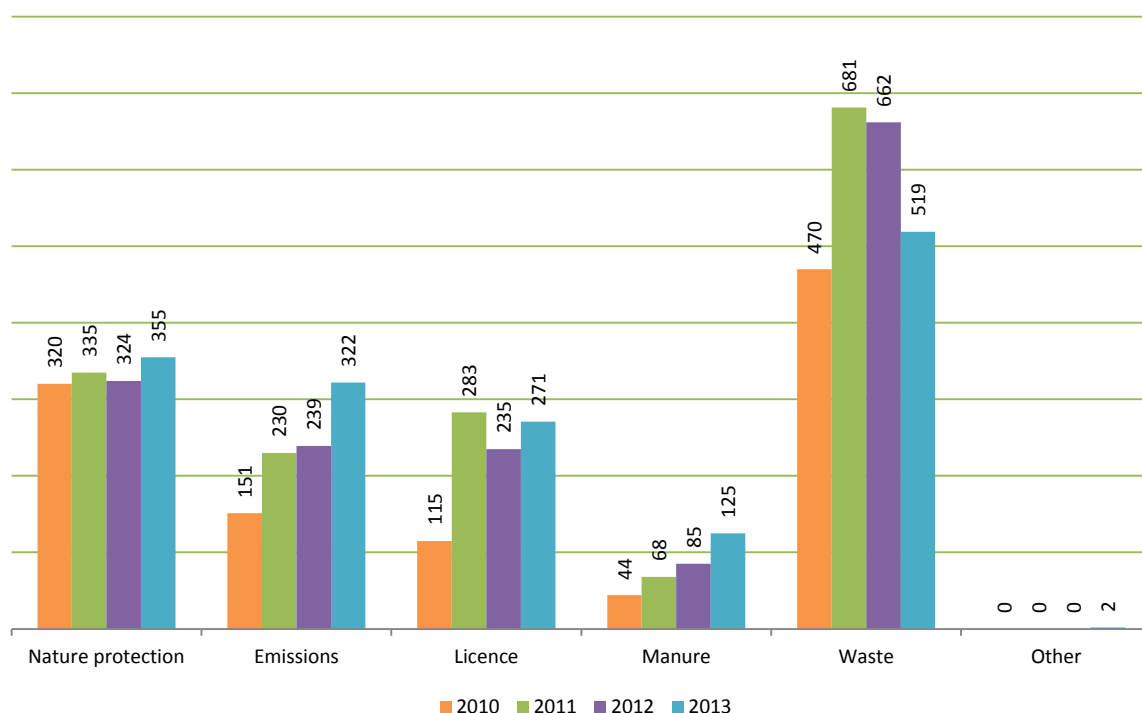
Since the 2010 Environmental Enforcement Report more specific data have been included with regard to the origin and theme of the cases referred to the AMMC. It can be established, for instance, that in the period 2010-2013 on average 2% of the cases received by the AMMC originate from the Agency for Roads and Traffic, 1% from the federal police, 48% from the local police, 4% from municipal supervisors, 16% from the Environmental Inspectorate Division, 21% from ANB, 1% from OVAM and 5% from the Flemish Land Agency. The AMMC also received official reports that were drawn up by provincial supervisors (0.55%), the Flemish Environment Agency (0.03%), and by Customs and Excise, Public Health and Urban Planning (0.27%). This average ratio between the reporting bodies which drew up the received official reports in the period 2010-2013 is highly representative of each individual year.

With regard to environmental themes it could be recorded that in the period 2010-2013 on average 23% referred to nature protection, 16% to air/water/soil/noise, 15% to licences, 5% to manure and 40% to waste.

⁷⁹ Another explanation could be that the figures which the VHRM received from public prosecutor's offices refer to the date of the infractions or the date of entry at the public prosecutor's office on the one hand and the latest state of progress on the extraction date (see earlier). However, the figures which the VHRM received from the AMMC refer to all official reports received by the AMMC in the period from 1 January to 31 December of that respective year. Therefore, there is a real chance that even more official reports exist between 1 and 10 January which were referred in view of the imposition of an administrative fine, but which were (not) yet counted by the AMMC, since they were only received by the AMMC during the next year. Although there is a difference between the total numbers – the number of cases received by the AMMC is higher than the number of cases dismissed 'for other reasons' by the public prosecutor's offices – in some cases the figures received from the separate public prosecutor's offices are slightly higher than those provided by the AMMC. This may, in part, be owing to the following reasons:

- the selection of cases by the public prosecutor's offices was made on the basis of a specific list of charge codes, drawn up in consultation with the VHRM. From the moment a case was assigned one of these codes, this case was included in the count of cases of the public prosecutor's offices. Hence, in theory, there is a possibility that the figures of the public prosecutor's offices comprise cases which had been assigned other charge codes as well. These other charge codes could, in theory, have had a relatively greater weight, leading the case to be referred to another administration.
- Certain environmental cases that were selected on the basis of the charge codes assigned were processed by means of a municipal administrative sanction or another type of administrative fine.
- In order to gain a complete picture of the action taken in all cases received by the public prosecutor's office, it was decided, in consultation with the VHRM, that for combined cases the decision taken at the level of the so-called 'mother case' would be looked at. In other words, it is possible that a public prosecutor's office combined two or more cases (because they refer to the same suspect and the same type of offence) and that those different cases were submitted together (but as one single whole with the reference number of the 'mother case'). It is therefore possible that the AMMC may have treated these cases as a single case, whereas they were counted as several cases in the figures of the public prosecutor's offices, given that the decision refers to more than one case (at the level of the public prosecutor's office cases are defined by means of a reference number; each initial official report results in the creation of one reference number).
- It is possible that errors occurred in the recording of charges at the public prosecutor's office, or that the recording of charges was inaccurate or incomplete, resulting in certain cases not being selected at the level of the public prosecutor's office, whereas they were submitted to the AMMC.

The graph below shows the evolution in numbers for each theme.



Graph 68 Cases received by the AMMC per theme

It can be deduced from this that, just like for the average percentages for the overall periods, on average 40% of the cases referred to waste. The number of received cases grew in the period 2010-2013 for all themes, with small fluctuations for the themes 'nature protection' and 'licences' in 2012. What is striking, however, is the strong decrease in the number of cases referring to waste in 2013. This decrease in absolute numbers was also observed in the overview of the number of cases referring to waste received by the public prosecutor's offices in the Flemish Region. This could possibly be explained by the growing number of administrative fines that are imposed by the municipalities themselves (municipal administrative sanctions) in cases of illegal dumping.

The table below gives an overview of the number and types of decisions taken by the AMMC in the period 2009-2013 within the framework of the procedure for the imposition of an alternative administrative fine.

	2009	2010	2011	2012	2013	Total
Official reports AMMC received from the public prosecutor's offices	304	1,100	1,597	1,545	1,594	6,140
Decisions reached within the framework of the alternative administrative fines	5	219	378	1,442	1,543	3,587
No fine was imposed	0	6	40	402	258	706
A fine was imposed	0	151	279	1,040	966	2,436
Proposed administrative settlement was paid	/	/	/	7	311	318
The official report did not fall within the scope of Title XVI of DABM	5	62	59	0	8	134

Table 27 Decisions reached by the AMMC within the framework of alternative administrative fines

Crime						
Administrative transactions	2009	2010	2011	2012	2013	Total
Number presented annually	/	/	/	82	382	464
Number of cases processed ⁸⁰ by BT same year	/	/	/	7	311	318
Number of cases processed through penalty after (not required) proposal BT	/	/	/	0	68	68 ⁸¹
Number of cases processed through a fine after (on defense) proposal BT	/	/	/	0	3	3 ⁸²

Table 28 Administrative transaction - environmental offences

In total, the AMMC received 6,140 official reports from the public prosecutor's offices since the Environmental Enforcement Act entered into effect in May 2009. Between 1 May 2009 and 31 December 2013, the AMMC reached a decision in 58% of these 6,140 cases.

However, when looking at the ratio of the number of cases that were received each year and the number of cases that were processed annually, a strong difference can be found in the studied period between the period 2009-2011 and 2012 and 2013. In the years 2009-2011, the start-up period of the AMMC, very few cases were processed (barely 602 cases compared to 3,001 received cases). In 2012, the staff of the AMMC was extended. From that time onwards, almost as many cases were processed annually as the AMMC received.

During the period 2009-2013, 2,436 alternative administrative fines were imposed. In addition, it was decided not to impose a fine in 706 cases. Also, it was concluded in 134 cases that the official report did not fall within the scope of the Environmental Enforcement Act.

Since September 2012, the AMMC has the possibility to use the instrument 'administrative transaction'. The 2012 Environmental Enforcement Report stipulated that, given the short period during which the instrument was used, it was too early to give interesting figures and draw any relevant conclusions. The reason for this is that the proposals for payment of an administrative transaction amount within a specific year cannot be directly included in the number of cases processed during that same year. On the one hand, an offender is not obliged to agree with the transaction proposal and can lodge a written objection. In this case, the procedure for the imposition of an alternative fine is resumed and the case will result in a decision on whether or not to impose an administrative fine, which may be taken within the next calendar year. Only then can this type of case be regarded as completely processed. On the other hand, it is also possible that cases in which a transaction proposal was made are only regarded as completely processed in the next calendar year, since the offender is given a specific amount of time to pay the transaction amount. The procedure for the imposition of an administrative fine will not lapse until the proposed amount is fully paid in time.

The present Environmental Enforcement Report can briefly come back to the aforementioned by indicating that in 2012 (from September onwards) the AMMC made 82 proposals for the payment of a sum to people who committed environmental offences and that in that same year no less than 7 were already paid (which caused the fine procedure to lapse and the case to be regarded as completely processed). The other cases were processed in the next calendar year and are included in the relevant figures. In 2013, the AMMC, in response to certain environmental offences identified in received official reports, made no less than 382 proposals for the payment of a fine to offenders. For that same year 311 cases were successfully processed, because the proposed transaction amount was fully paid in time (lapse of administrative fine procedure), 68 cases resulted

⁸⁰ Processed = paid

⁸¹ These figures are already included in the numbers "decision did (not) include a fine". However, by including them here they can give an additional picture of cases that were processed using this instrument.

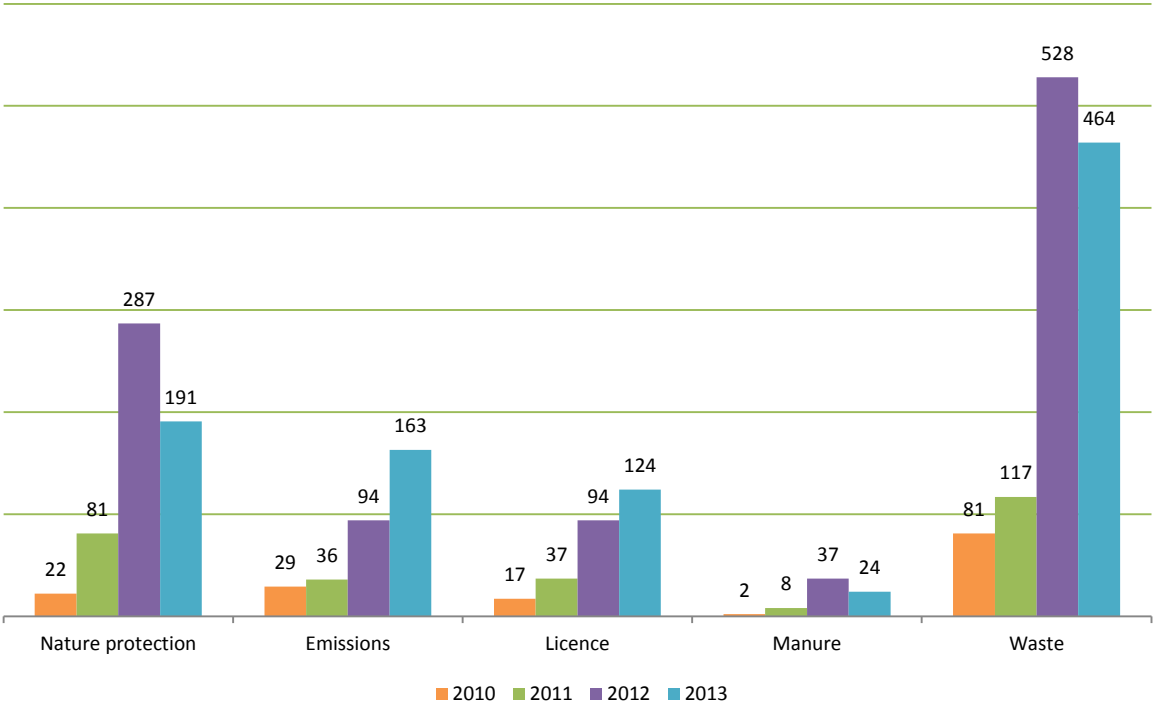
⁸² These figures are already included in the numbers "decision did (not) include a fine". However, by including them here they can give an additional picture of cases that were processed using this instrument.

in a fine (after the transaction proposal had been refused) and in 3 cases it was decided in the end not to impose an alternative fine⁸³.

By considering the years 2012 and 2013 together, a broader picture can be obtained of the percentage of proposed administrative transactions that were paid within the same period (in time), as a result of which the fine procedure lapsed. For instance, in the period between the first application of the instrument up to and including 2013, the AMMC made no less than 464 proposals, of which 318 cases were processed successfully within that same period. Given that the payment deadline has not yet expired for a number of the proposals, it is expected that over 80% of the cases in which the administrative transaction is applied will be processed in the very short term. As a result, the instrument seems to be useful for specific environmental offences for implementing the intended tit-for-tat policy.

Within the framework of the 2,436 alternative administrative fines that were imposed in the period 2009-2013, 24% was imposed in the context of cases referring to nature protection. 13% referred to air/water/soil/noise, 11% to licences, 3% to manure and the majority, i.e. 49%, to waste. During the studied period only 122 cases of fines were accompanied by a deprivation of benefits, which is 5% of the total number of imposed alternative administrative fines. The use of the instrument 'deprivation of net benefit' remained fairly limited over the past years and was only applied if the "net value" could be very accurately calculated. Following the evaluation of the Environmental Enforcement Act the deprivation of net benefit was changed into the deprivation of gross benefit. In this way it is put on the same footing as the criminal forfeiture.

The graph below shows the evolution for each theme in the period 2009-2013.



Graph 69 Number of imposed alternative administrative fines per theme

From the graph above too it can be deduced that most of the alternative administrative fines that were imposed each year referred to waste. A rising trend could be observed for each theme until 2012. For the

⁸³ The numbers 311, 68 and 3 can contain a number of cases in which the transaction amount was proposed in late 2012.

themes 'emissions' and 'licences' this rising trend continued in 2013, whereas the absolute numbers of fines referring to the themes of nature protection, manure and waste decreased in 2013. The growing trend in licences and emissions was a deliberate policy choice of the AMMC to pay priority attention to these themes during a certain period, given the large number of relevant cases that are still being processed and the large inflow of these themes. Precisely because these environmental offences often have a serious impact on the environment in practice, and the purpose of the fine is to improve the environment, priority was (temporarily) given to the processing of environmental offences that actually cause serious damage to the environment.

As indicated earlier, a total of 464 administrative transactions were proposed in 2012 and 2013. Of these 464 cases, 23% referred to nature protection (mainly situated in the accessibility regulation in forests and nature reserves and the fisheries regulation), 0.43% to air/water/soil/noise, 0.43% to licences, 6% to manure and 70% to waste (mainly illegal dumping and small-scale waste incinerations (by private individuals)).

With regard to the payment degree, specifically of the alternative administrative fines in the context of environmental offences, the AMMC provided the following information.

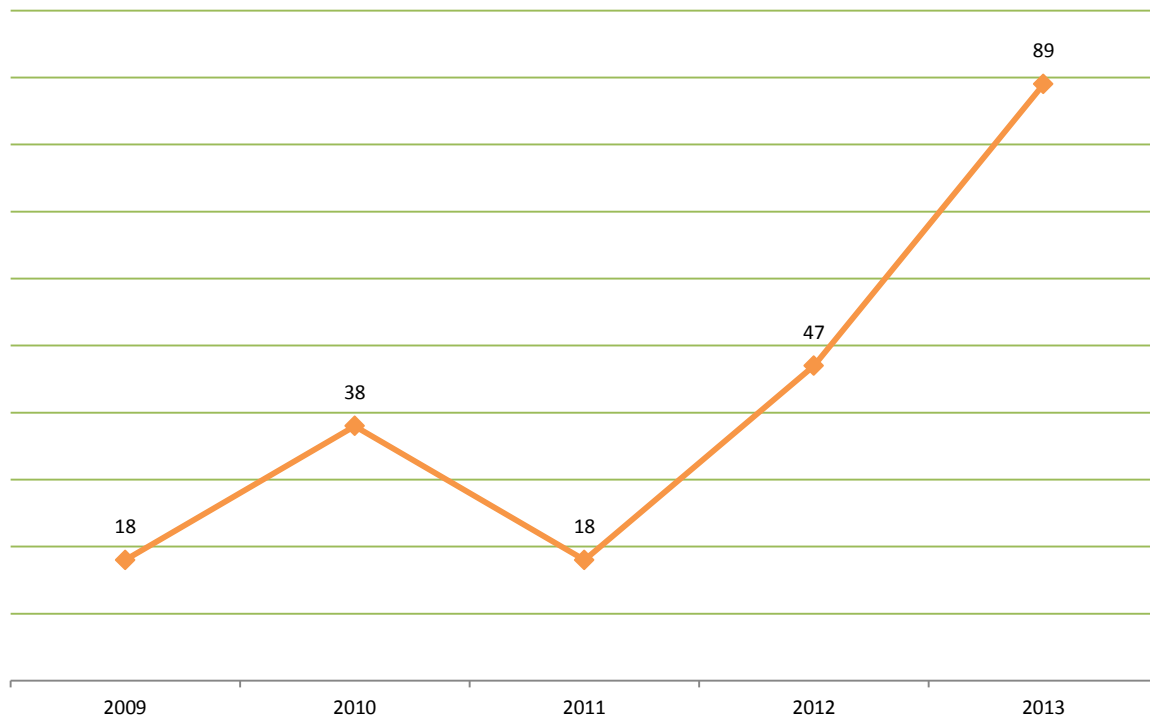
Degree of spontaneous payments for collection of fines imposed in 2012:	74.19%
Overall payment degree for collection of fines imposed in 2012:	89.52%

4.2.2 Processing of environmental infringements

The Government of Flanders included annexes with the Environmental Enforcement Decree containing an exhaustive list of environmental infringements. These environmental infringements were decriminalised. As mentioned earlier, when an environmental infringement is identified, the supervisor can draw up an identification report. This identification report is sent immediately to the regional body, which is the AMMC. After receiving the identification report, the AMMC can, within a period of 60 days, inform the suspected offender of its intention to impose an exclusive administrative fine (possibly accompanied by a deprivation of benefits). Within a period of 90 days from this notification of its intention, the AMMC has to decide on the imposition of an exclusive administrative fine, possibly accompanied by a deprivation of benefits. The suspected offender must be informed of this decision within ten days.

The AMMC was therefore asked about the number of identification reports it received in the period 2009-2013, about whether these were drawn up by municipal, provincial, regional or police district supervisors, and about the context in which these identification reports were drawn up and fined.

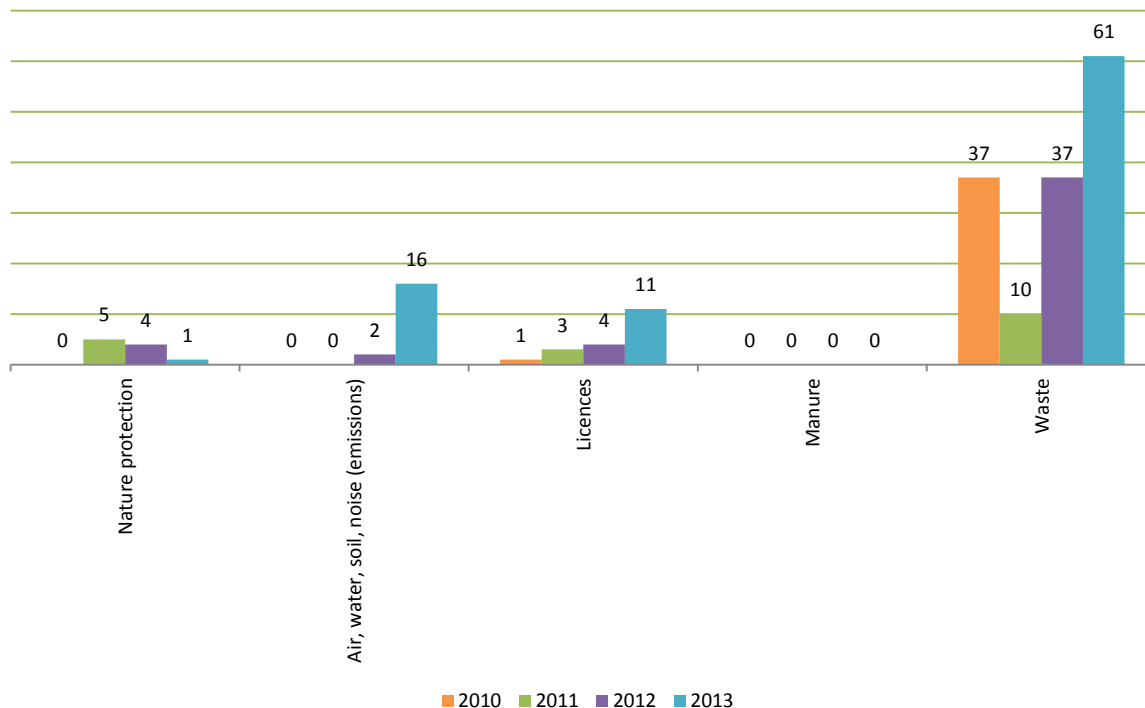
The graph below gives the number of identification reports received by the AMMC in the period 2009-2013.



Graph 70 Number of identification reports received by the AMMC

In the period 2009-2013, the AMMC received a total of 210 identification reports. Most of these identification reports were drawn up by regional supervisors, i.e. 80%. In addition, 16% were drawn up by local police supervisors and 4% by municipal supervisors. In this context it can also be communicated that 5% of the total number of identification reports in the period 2009-2013 were drawn up in the framework of nature protection, 9% in the context of air/water/soil/noise, 77% with regard to waste⁸⁴ and 9% in the context of licences. The graph below reflects the number of identification reports received per theme for the years 2009 to 2013.

⁸⁴ This large share of the theme 'waste' compared to the total number of identification reports received by the AMMC can be explained by an enforcement campaign of OVAM during which the waste producers' obligation to report on the industrial waste produced during the previous calendar year was inspected through the Integrated Annual Environmental Report.



Graph 71 Number of identification reports received per theme

The above graph as well shows that most of the identification reports received each year referred to waste and only a small number to emissions, nature protection and licences. In addition, it can be established that in the period 2009-2013 the AMMC did not receive any identification reports referring to manure. Despite the decrease in 2011, the number of identification reports increased by 281% in 2013 compared to 2009. The number of identification reports referring to emissions and licences also rose in the studied period. Only the number of identification reports referring to nature protection fluctuated.

The section 'Evaluation of the instrument 'identification report'' reports on the use of this instrument by the supervisors. It was reported here that in the studied period the supervisors had drawn up 292 identification reports. This shows that 82 of the identification reports have not been received by the AMMC, which is 28% of the total number of identification reports drawn up. This could possibly be explained by the fact that the supervisors did not refer the identification report to the AMMC. Still, it seems strange that a supervisor who identifies an environmental infringement and actually makes an identification report does not refer this report to the AMMC for further action. The reason could also be that certain supervisors have a wrong idea of what an identification report is and confuse it with an informal report instead of a report which is necessary for the formal identification of an environmental infringement.

The table below gives an overview of the decisions taken by the AMMC within the framework of the procedure for the imposition of exclusive administrative fines and the identification reports received in the period 2009-2013, and provides a picture of how environmental infringements are processed by the AMMC.

Exclusive administrative fine	2009	2010	2011	2012	2013	Totaal
Identification reports received by the AMMC	18	38	18	47	89	210
Decisions reached within the framework of the exclusive administrative fine	4	13	36	52	65	170
No fine was imposed	1	0	2	3	0	6
A fine was imposed	3	5	32	49	54	143
The identification report did not fall under the scope of Title XVI of DABM	0	8	2	0	0	10

Table 29 Decisions reached by the AMMC within the framework of exclusive administrative fines

Infringements						
Administrative transactions	2009	2010	2011	2012	2013	
Number presented annually	/	/	/	0	12	
Number of cases processed ⁸⁵ by Administrative transactions same year	/	/	/	0	11	
Number of cases processed through penalty after (not required) proposal Administrative transactions	/	/	/	0	1 ⁸⁶	
Number of cases processed through a fine after (on defense) proposal Administrative transactions	/	/	/	0	0	

Table 30 Administrative transaction - environmental infringements

In total, the AMMC received 210 identification reports since the Environmental Enforcement Act entered into effect in May 2009. Between 1 May 2009 and 31 December 2013, the AMMC reached a decision in 81% of these 210 cases. During this period, 143 exclusive administrative fines were imposed. In addition, it was decided not to impose a fine in 6 cases. Also, it was concluded in 10 cases that the identification report did not fall within the scope of the Environmental Enforcement Act.

From 2013 onwards, the AMMC has started to apply the instrument 'administrative transaction' for specific environmental infringements. The proposals for payment of an administrative transaction amount from 2013 are not directly included in the number of cases processed in 2013. The reason for this is that an offender is not obliged to agree with the transaction proposal and can lodge a written objection. In this case, the procedure for the imposition of an exclusive fine is resumed and the case will result in a decision on whether or not to impose an administrative fine, which may be taken within the next calendar year⁸⁷. Only then can these cases be regarded as completely processed.

In 2013, 12 proposals for the payment of a fine were made to people who committed environmental infringements, each time within the framework of cases referring to waste. For 10 cases the proposed administrative transaction was actually paid in 2013. As a result the administrative fine procedure lapsed and the case was regarded as completely processed. In one case in which an administrative transaction was proposed in 2013, the transaction amount was not fully paid (in time). Therefore, the procedure was resumed and an exclusive administrative fine with deprivation of benefits was still imposed in 2013⁸⁸.

⁸⁵ Processed = paid

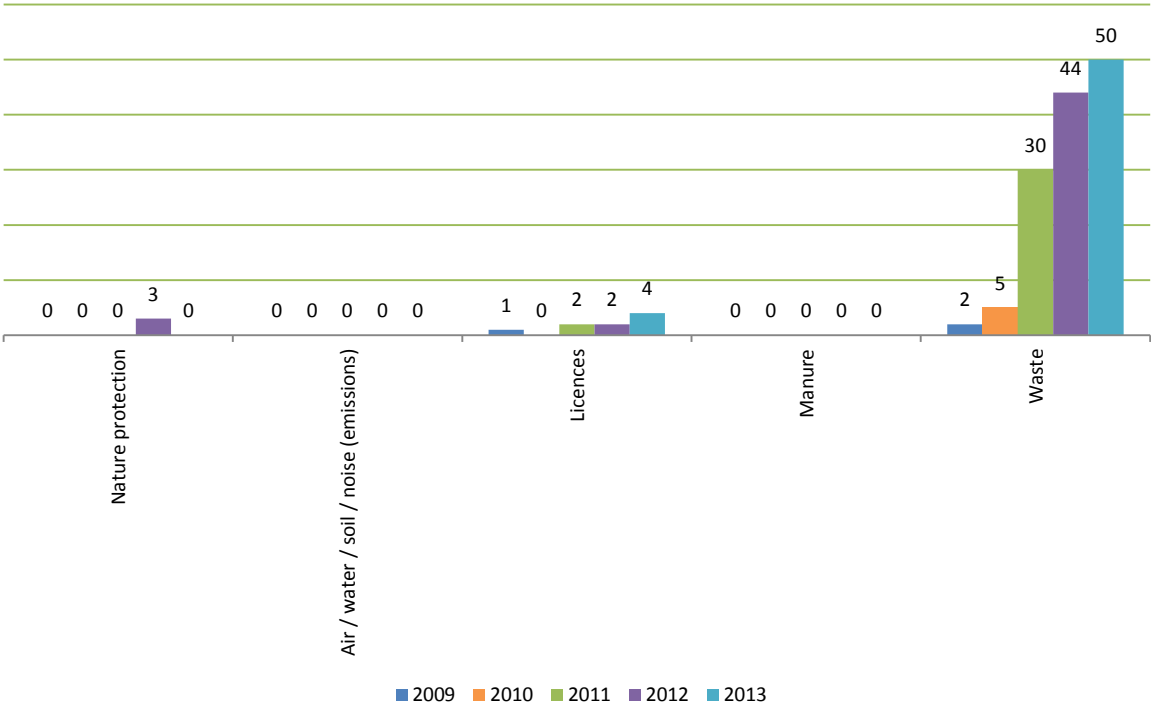
⁸⁶ Included in the processing figure for 2013, cf. Table 29 under "decision included a fine".

⁸⁷ This actually happened with 3 cases for which the proposal was made in 2013. The proposal was refused, as a result of which an exclusive administrative fine was imposed in 2014. The processing of these cases will be included in the figures regarding the decisions reached in 2014 (next Environmental Enforcement Report).

⁸⁸ This decision is included in the 54 fine decisions imposed in 2013 in the above table.

The figures for this type of cases clearly point to a processing percentage of over 91% within the same year. Consequently, it can be concluded from this that the administrative transaction is no doubt a suitable instrument for a tit-for-tat policy for certain environmental infringements.

Of the 143 exclusive administrative fines that were imposed in the period 2009-2013, 2% were imposed in the context of cases referring to nature protection. 6 of the alternative administrative fines referred to licences and the majority, i.e. 92%, to waste. The graph below reflects the absolute numbers of the exclusive administrative fines per theme in the period 2009-2013.



Graph 72 Number of exclusive administrative fines imposed by the AMMC per theme

This graph also shows that most of the exclusive administrative fines that were imposed each year referred to waste. This number also increased year after year. A percentage increase of 2400% can be observed in the number of exclusive administrative fines referring to waste in 2013 compared to 2009. Only a limited number of fines concern referring to nature protection and licences. During the studied period no exclusive administrative fines were imposed in the context of manure. This can naturally be explained by the fact that none of the received identification reports in the studied period referred to manure. On the other hand, 18 cases referring to emissions were still received by the AMMC during the period 2009-2013.

However, this must be placed in the right context in that 16 cases were received in 2013 and the decision deadline had thus probably not yet expired in 2013.

During the studied period 38 cases of fines were accompanied by a deprivation of benefits, which is 26.5% of the total number of imposed exclusive administrative fines.

With regard to the payment degree, specifically of exclusive administrative fines in the context of environmental infringements, no data were supplied by the AMMC for the period 2009-2013.

4.3 Evaluation of the administration of justice by the Environmental Enforcement Court

The Environmental Enforcement Court (Milieuhandhavingscollege or MHHC) is an administrative court that was created by virtue of Article 16.4.19 of DABM. It passes judgement in appeals against decisions of the Environmental Enforcement, Environmental Damage and Crisis Management Division to impose alternative or exclusive administrative fines.

The Environmental Enforcement Court was also surveyed each year by the VHRM about its activities. It was asked about the number of appeals against decisions of the AMMC it had received in the framework of both environmental offences and environmental infringements, and how these appeals were processed. The table below shows the activities of the MHHC in the period 2009-2013 with regard to the appeals lodged against decisions of the AMMC for the imposition of alternative administrative fines.

Environmental crimes	2009	2010	2011	2012	2013
Number of appeals received with regard to the decisions of AMMC	0	11	24	82	96
Number of appeals inadmissible or unfounded	/	2	7	19	49
Appeal declared devoid of purpose	/	/	/	6	5
Agreement to withdraw appeal	/	/	/	4	2
Number of appeals where decision of the AMMC was officially annulled	/	/	0	3	4
Number of appeals well-founded or partially well-founded, with reduced fine	/	/	2	18	24
Number of appeals well-founded or partially well-founded, remission of fine / decision of the AMMC annulled without further action	/	/	2	4	10
Number of interim judgements	/	/	/	5	7

Table 31 *Appeals in the context of environmental offences*

The table above indicates that in the period 2009-2013 the MHHC received a total of 213 appeals against alternative administrative fines imposed by the AMMC. In the previous section it was indicated that the AMMC imposed a total of 2,436 alternative administrative fines in the studied period. This thus means that an appeal was lodged against almost 8% of the decisions of the AMMC to impose alternative administrative fines in the period 2009-2013. This percentage may be higher since the offender has 30 days to lodge an appeal with the Environmental Enforcement Court, starting from the day following notification of the decision of the AMMC. This means that an appeal may still have been lodged against decisions taken by the AMMC during the last thirty days of 2013.

The above table shows, among other things, that the Environmental Enforcement Court reached a (interim) decision in the period 2009-2013 for 82% of the appeals it had received during that same period. Of the total number of appeals that were lodged against imposed alternative administrative fines, 36% were declared inadmissible or unfounded and 29% were declared wholly or partially well-founded, which means that the fine imposed was reduced or annulled/remitted.

The table below shows the activities of the MHHC in the period 2009-2013 with regard to the appeals lodged against decisions of the AMMC regarding exclusive administrative fines.

Environmental violations	2009	2010	2011	2012	2013
Number of appeals received with regard to the decisions of AMMC	0	1	5	9	2
Number of appeals inadmissible or unfounded	/	0	2	3	4
Appeal declared devoid of purpose	/	/	/	1	0
Agreement to withdraw appeal	/	/	/	0	0
Number of appeals where decision of the AMMC was officially annulled	/	0	0	0	0
Number of appeals well-founded or partially well-founded, with reduced fine	/	0	0	1	0
Number of appeals well-founded or partially well-founded, remission of fine / decision of the AMMC annulled without further action	/	0	0	1	0
Number of judgements / number of cases in which no judgment was felled in the surveyed year	/	/	/	1	1

Table 32 Appeals in the context of environmental infringements

Within the framework of the exclusive administrative fines imposed by the AMMC in the period 2009-2013, the above table shows an appeal rate of at least 12%. It was indeed indicated in the previous section that in the period 2009-2013 the AMMC imposed 143 exclusive administrative fines, whereas the Environmental Enforcement Court received 17 appeals in the context of exclusive administrative fines in the period 2009-2013. This percentage of the appeal rate may be a bit higher since the offender has a term of 30 days, starting from the day following the notification of the AMMC's decision, to lodge an appeal with the Environmental Enforcement Court. This means that an appeal may still have been lodged against decisions taken by the AMMC during the last thirty days of 2013.

The above table shows, among other things, that the Environmental Enforcement Court reached a (interim) decision for 82% of the appeals it received in the period 2009-2013 against imposed exclusive administrative fines during that same period. Of the total number of appeals that were lodged against imposed exclusive administrative fines, 53% were declared inadmissible or unfounded and only 2 were declared wholly or partially well-founded, which means that the fine imposed was reduced or annulled/remitted.

4.4 Evaluation of the sanctions policy pursued by the Flemish Land Agency

Not only the Environmental Enforcement, Environmental Damage and Crisis Management Division can impose administrative fines. The Flemish Land Agency (Vlaamse Landmaatschappij or VLM) was authorised to impose administrative fines already with the coming into force of the Flemish Parliament Act of 22 December 2006 on the protection of water against agricultural nitrate pollution (generally known as the Flemish Parliament Act on Manure).

In its Article 63, the Flemish Parliament Act on Manure provides an exhaustive list of infringements for which administrative fines can be imposed by the VLM. The said article also defines the calculation of the amounts of the fines. Article 71 of the aforementioned Flemish Parliament Act stipulates for which infringements an official report has to be drawn up.

Administrative fines can be imposed in relation to the following infringements: nitrogen and phosphate balance; overfertilisation of plots; more animals than nutrient emission rights; unproven manure sales; notification and cancellation of shipments; late notification of shipments; shipments without proof of dispatch or presentation of an agreement with the neighbours; failure to establish or notify an agreement with the neighbours; shipments without a correct and complete manure sales document; failure to comply with the notification obligation; erroneous notification; failure to keep a register; nutrient balances not available for inspection; shipment without mandatory documents; refusal to use Sanitel; failure to use or incorrect use of AGR-GPS; manure processing obligation and processing of 25% NER; manure excretion balances: available for inspection and on notification; shipment by recognised shippers: notification or cancellation; shipment by recognised shippers: no shipping document; nitrate residue in high-risk area: exceedance; nitrate residue in high-risk area: refusal of sampling and nitrate residue (both in and outside high-risk area): cultivation plan and fertilisation plan/register.

The Flemish Land Agency was therefore not only asked about the number of environmental enforcement inspections carried out in the period 2009-2013 and the measures taken following these inspections, as described in Chapters 2 and 3, but also about the number of administrative fines imposed by the VLM in the framework of the inspection reports drawn up by it and about the type of infringements these referred to.

The table below shows the number of administrative fines imposed by the VLM in the period 2009⁸⁹-2013.

	2009	2010	2011	2012	2013
Administrative fines imposed by the VLM in keeping with the provisions included in the Flemish Parliament Act on Manure	86	5,436	4,841	3,942	3,093
Nitrogen and phosphate balance	3	738	1,036	686	397
Overfertilisation of a plot	18	19	26	31	12
More animals than nutrient emission rights (NER-D)	0	2,138	2,052	1,613	1,363
Unproven manure sales	1	3	2	0	0
Notification and cancellation of shipments	16	73	25	19	21
Late notification of shipments	0	546	122	0	0
Shipments without proof of dispatch or presentation of an agreement with the neighbours	0	3	1	2	2

⁸⁹ For the period 2009 the figures only refer to the number of administrative fines imposed by the VLM in the period between 1 May 2009 and 31 December 2009. In addition, the 2009 figures only reflect the fines following field identifications and not the database fines.

Failure to establish or notify an agreement with the neighbours	2	7	2	4	9
Shipments without a correct and complete manure sales document	23	109	54	10	31
Failure to comply with the notification obligation	0	1,280	1,412	1,191	928
Erroneous notification	3	4	7	13	10
Failure to keep a register	0	5	2	2	1
Not keeping nutrient balances available for inspection	0	415	0	0	0
Shipment without mandatory documents	3	30	14	19	8
Refusal to use Sanitel	0	0	0	0	0
Failure to use or incorrect use of AGR-GPS	17	64	52	24	50
Manure processing obligation and processing of 25% NER	0	0	0	287	239
Manure excretion balances	0	0	7	10	22
Shipment by recognised shippers (notification or cancellation)	0	1	0	0	0
Shipment by recognised shippers (no shipping document)	0	1	0	0	0
Exceedance of nitrate residue in high-risk area	/	/	0	0	0
Refusal of sampling of nitrate residue in high-risk area	0	0	0	0	0
Cultivation plan and fertilisation plan/register for nitrate residue (both in and outside high-risk area)	0	0	0	0	0

Table 33 Number and nature of the administrative fines imposed by the Flemish Land Company

The above table shows that the Flemish Land Agency imposed 17,398 fines in the studied period. These fines were imposed following infractions identified in the field, as well as administrative inspections. This means that some of the fines were imposed administratively following the inspection of the database.

The above table indicates, among other things, that 41% of the total number of imposed fines were imposed due to the fact that more animals were kept than nutrient emission rights were available, 28% due to failure to comply with the notification obligation. 16% of the administrative fines were imposed in the context of the nitrogen and phosphate balances.

5. Conclusion and recommendations

In the last section an overview will be given of the conclusions on the evaluation of the pursued environmental enforcement policy, the use of instruments and the sanctions policy for the period 2009-2013.

Having regard to the fact that this synthesis report offers an analysis of the way in which the Environmental Enforcement Act and the Environmental Enforcement Decree were implemented over the past five years, the conclusions below will therefore cover all the activities of the enforcement bodies in the Flemish Region from the past five years and not just from 2013.

5.1 Supervisors, efforts and inspections

With regard to the regional environmental enforcement bodies it could be established in the second chapter that the number of regional supervisors increased by more than 14% in the period 2009-2013. In 2009, 631 regional supervisors were active. In 2013, this number rose to 722.

Despite the increase in the number of regional supervisors over the past five years, it must be concluded that the total number of FTEs dedicated to enforcement duties has decreased since the entry into effect of the Environmental Enforcement Act. In 2010, the FTEs dedicated to enforcement duties by regional supervisory bodies amounted to a maximum of 190 FTEs in total, whereas in 2013 this had decreased to 165 FTEs, which is even lower than the total number of FTEs dedicated to enforcement duties in 2009. As a result, the average number of FTEs per regional supervisor decreased and the regional supervisors dedicated on average lesser and lesser time to enforcement duties. This was 0.27 FTEs in 2009, 0.29 FTEs in 2010, 0.28 FTEs in 2011, 0.25 FTEs in 2012 and 0.22 FTEs in 2013. In the period 2009-2013 an average of 0.26 FTEs were dedicated to enforcement duties per regional supervisor. These data give the impression that the number of supervisors has risen, but that the amount of time they dedicated to enforcement has decreased. This fact must be interpreted with caution, since there are no fixed criteria which supervisors are to use to interpret the FTEs dedicated to enforcement. As a result, the given number of FTEs is a subjective fact. It may be that the number of supervisors was extended, but that it took some time before these supervisors could actually be used for enforcement duties (because they needed time to settle in, received training, etc.). Therefore, the aforementioned figures could not be interpreted as the fact that the supervisors carried out fewer and fewer enforcement duties during the studied period.

Still, the decrease in the FTEs dedicated to enforcement duties in the studied period does not result in a declining number of performed environmental enforcement inspections. A 29% increase could indeed be recorded in the number of inspections.

In the studied period the average number of inspections per supervisor decreased by 14% in 2009 compared to 2013. This shows that the number of appointed supervisors rose more sharply than the number of performed environmental enforcement inspections. Over the 2009-2013 period, the average number of inspections per regional supervisor was 41. Generally, the average number of inspections per FTE also decreased compared to 2009. Over the 2009-2013 period, the average number of inspections per FTE was 175.

The number of inspections and the number of regional supervisors rose in the studied period, yet the number of FTEs dedicated to enforcement duties fell. This could mean that further expertise was built by supervisors to familiarise themselves even more with the Environmental Enforcement Act and to work more efficiently (and therefore be able to do more inspections in a shorter period of time). On the other hand, it may point to the increase in fast/short/efficient inspections.

When looking at the police, both local and federal, as environmental enforcement bodies it can be established that the number of official reports made with regard to environment, of which 97% was drawn up by the local police, decreased by 19% during the studied period. One possible explanation for the decrease in the number of official reports, drawn up by the police services and referred to the public prosecutor's office, is the fact that cases of 'nuisance' are now more than ever dealt with by the system of municipal administrative sanctions. Before that, official reports of environmental infractions were drawn up for these cases. Still, this only has an impact on local waste crime. This serious waste crime as good as maintains the status quo.

In the context of the National Safety Plan, the federal police carried out proactive inspections in the framework of waste shipments on the territory of the Flemish Region in the period 2009-2013. This type of inspections reveals a falling trend. Compared to 2009 a 47% decrease could be recorded. This is owing to the AUGIAS project which was running in 2009-2010. An infraction was identified in on average 8%⁹⁰ of the total number of inspections carried out within the framework of waste shipments during the studied period.

With regard to the specific activities of local police supervisors it could be established that the number of police districts with an appointed supervisor has gradually increased since 2010 (from 21 police districts in 2010 to 34 police districts in 2013). The number of local police supervisors also rose in the period 2010-2013. This was an increase of 81% (from 31 supervisors in 2010 to 56 supervisors in 2013). The average number of supervisors per police district remained fairly stable and amounted on average to 1.68 supervisors per police district. The total number of FTEs dedicated to environmental enforcement duties within the police districts also grew in the period 2010-2013. However, this increase did not run completely parallel to the increasing number of supervisors, given the fact that it concerned a 49% increase (from 16.43 FTEs in 2010 to 24.48 FTEs in 2013). In addition, it could be calculated that the average amount of time dedicated was on average 0.43 FTEs in the period 2010-2013. This remained fairly stable during the studied period. In the number of environmental enforcement inspections carried out by these supervisors a 27% increase could be recorded in the period 2010-2013 (from 3,741 in 2010 to 4,762 in 2013). On average 14% of the performed inspections were inspections carried out at own initiative. The share of proactive inspections compared to the total number of performed inspections rose strongly (259% increase), however. The average number of inspections per supervisor in the period 2010-2013 was calculated at 85. The average number of inspections per FTE in the period 2010-2013 on the other hand was 201.

As far as the activities of the provincial governors in the context of the imposition of administrative measures and safety measures are concerned, it can be concluded that in the period 2009-2013 barely 14 requests/petitions for the imposition of administrative measures were submitted to the provincial governors. Only in 2011, an administrative measure was imposed once by one of the provincial governors. Administrative measures were not imposed by any of the provincial governors, neither following petitions, nor at their own initiative. In addition it could be concluded that over the 2009-2013 period none of the provincial governors received a request for the imposition of a safety measure and none of them imposed a safety measure by virtue of their office.

It could be established for the period 2009-2011 that none of the provinces had a supervisor, as referred to in Article 16.3.1, §1, 2° of the Environmental Enforcement Act, who was appointed by the Provincial Executive, or a Vlarems official at their disposal. From 2012 onwards, only the Province of Antwerp had 8 supervisors at its

⁹⁰ On the basis of the updated figures the percentage of infractions amounts to 9.7%.

disposal. These 8 supervisors dedicated a total of 0.2 FTEs to environmental enforcement duties both in 2012 and in 2013. In addition, it was reported that each time one environmental enforcement inspection was carried out in 2012 and in 2013. Chapter 2 also reported on the activities which each province carried out in the context of the Cooperation Agreement 2008-2013 for providing support to the municipalities. In the period 2009-2013 this support in the field of environmental enforcement consisted of providing information through information centres, organising regional meetings, and (co-) organising training pathways, consultations and training.

In the framework of their responsibilities regarding administrative measures and safety measures the responding mayors reported having received a total of 504 requests/petitions for the imposition of administrative measures in the period 2010-2013. The number of requests/petitions for the imposition of administrative measures gradually increased until 2012, but strongly decreased in 2013. About 60% of these requests/petitions originated from supervisors, the other 40% were petitions from third parties. It could be established that a total of 605 administrative measures were imposed by the mayors in the period 2010-2013, most of which, i.e. 33%, were imposed in 2013. In terms of safety measures it could be established that the mayors received a total of 131 requests for the imposition of safety measures and imposed 166 in total during the studied period, which means that at least 21% of the total number of imposed safety measures were imposed at the mayors' own initiative.

To analyse the efforts of the municipal supervisors, the VHRM could count on an average response rate of 67% over the past five years. The response rate has gradually increased since 2009 and increased 19% during the period 2009-2013.

Following the analysis of the data regarding nuisance-causing plants it could be established that the number of reported Category 1, 2 and 3 plants increased in 2013. It is remarkable that in the studied period on average 7% of the responding municipalities did not know the number of Category 1 and 2 plants on their territory, and on average 10% of the municipalities did not know the number of Category 3 plants. Even more striking is that during the period 2009-2013, on average 39% of the responding municipalities knew about on average 3,333 unlicensed plants on their territory. This is an average of no less than 45 nuisance-causing plants requiring a licence per municipality that are not operated in a legitimate way.

With regard to the appointment of municipal supervisors, supervisors of intermunicipal associations and local police supervisors it could be established that the total number of local supervisors has increased by 69% since the Environmental Enforcement Act entered into effect (from 274 local supervisors in 2009 to 464 local supervisors in 2013). More than half, i.e. on average 63%, of these supervisors were appointed within the municipalities. However, the percentage share of supervisors appointed within the municipalities decreased over the studied period, and resulted in an increase in the share of supervisors appointed within police districts and the supervisors appointed within intermunicipal associations. With regard to the appointment of local supervisors and the relevant provisions in the Environmental Enforcement Act it could also be established that in 2013 at least 15 and at most 21 of the responding municipalities - calculated on the basis of the number of Category 2 nuisance-causing plants - did not yet have sufficient supervisors at their disposal. If the population is taken as the criterion, it can be concluded that in 2013 11 municipalities did not yet satisfy the provisions of the Environmental Enforcement Act, which comes down to 5% of the responding municipalities.

It could be established that in the period 2010-2013 the number of municipalities with an appointed municipal supervisor gradually increased (from 185 in 2010 to 220 in 2013). However, what is remarkable is the fact that the number of supervisors decreased compared to 2010. During the studied period the number of municipal supervisors was subject to fluctuations. Compared to 2010 an 8% decrease could be calculated in the number of appointed supervisors in 2013. The average number of supervisors per municipality has remained fairly stable and amounted on average to 1.2 supervisors per municipality. However, this number depends on the size of the municipality. The larger the municipality, the higher the average number of supervisors per

municipality. The total amount of time dedicated also decreased in 2013 compared to the previous years. Compared to 2012, it even increased by more than 10 FTEs. This means that, just like the regional supervisors, the municipal supervisors dedicated less and less time to enforcement duties. The fact that the total amount of time dedicated decreased also means that the average amount of time dedicated by each supervisor decreased in the period 2010-2013. Over the period 2010-2013, the average amount of time dedicated by the supervisors within the municipalities amounted to 0.27 FTEs. This means that the average municipal supervisor is used for just over 1/4 FTE for the implementation of environmental enforcement duties under the Environmental Enforcement Act. In contrast to the number of appointed supervisors, the size of the municipality does not have any impact on the average amount of time dedicated by supervisors, except in the largest cities and municipalities. For the number of performed environmental enforcement inspections an 18% decrease could be calculated (from 5,649 inspections in 2010 to 4,657 in 2013). On average 35% of the number of inspections carried out by municipal supervisors over the 2010-2013 period were proactive inspections. On the basis of the figures it could be calculated that the average number of inspections per year per municipal supervisor amounted to 21 in the period 2010-2013. The average number of inspections per FTE in the period 2010-2013 on the other hand was 80.

Chapter 2 of the present Environmental Enforcement Report also reports on the activities of supervisors appointed within five intermunicipal associations engaged in the field of environmental enforcement. It can be concluded that this landscape of intermunicipal associations is still in full development. Although it could be established that these five intermunicipal associations appointed at least one supervisor, the use of the FTEs and the number of implemented environmental enforcement inspections strongly differed. It can be concluded that certain intermunicipal associations already created a good basis, whereas others are still entirely in the initial phase.

5.2 Instruments

The third chapter of the present Environmental Enforcement Report discussed the use of the separate environmental enforcement instruments in the period 2010-2013.

In the period 2010-2013, the total number of implemented environmental enforcement inspections increased. A 12% increase could be calculated (from 34,516 inspections in 2010 to 38,495 in 2013). It could also be established that the ratio between the number of inspections during which an infraction was identified and the inspections during which no infraction was identified stabilised in the studied period, and amounted on average to 35% versus 65% respectively (48,239 inspections versus 89,862 inspections on a total of 138,101 inspections in the period 2010-2013). This last high percentage could be connected to a high compliance rate and the absence of a risk-oriented approach/target-oriented supervision.

Furthermore, it could be concluded that for the period 2010-2013 on average 11% of the total of performed inspections the result was unknown. However, the number of inspections with unknown results increased during the studied period. A 30% increase could be calculated (from 3,437 inspections in 2010 to 4,456 in 2013). This high percentage is remarkable. The question arises as to how these figures should be interpreted. The result may be unknown because no infraction was identified, although this should normally have been entered on the questionnaire under the category 'no infraction was identified during the inspection'. It seems recommendable that for each inspection, whatever the result, the supervisor should indicate what was identified in the field and, if applicable, which action was taken to allow for an adequate follow-up.

The figures showed that in the period 2010-2013 no further action was taken following the identified infraction for on average 11.5% of the inspections during which an infraction was identified (environmental offence or environmental infringement). However, this fact strongly fluctuates and was analogous to the number of

inspections during which an infraction was identified. Only for 2013 relatively speaking fewer inspections without further action could be recorded compared to the total number of inspections.

In the period 2010-2013, a total of 9,470 recommendations were formulated for 89,862 inspections during which no infraction was identified (compared to a total number of inspections of 138,101), which comes down nearly 11% of these inspections. This means that in 1/10 of the environmental enforcement inspections during which no infraction was identified, there was a risk of an impending infraction and recommendations were formulated to prevent the impending infraction. The number of formulated recommendations increased by 62% in the period 2010-2013 (from 1,724 recommendations in 2010 to 2,789 recommendations in 2013).

In the period 2010-2013, a total of 16,040 exhortations were formulated in relation to 48,239 inspections during which an infraction was identified, which comes down to the instrument being used in 33% of the inspections during which an infraction was identified. The exhortation was also gradually used more and more in the studied period. A 15% increase could be calculated (from 3,771 exhortations in 2010 to 4,344 in 2013).

Supervisors make very limited use of the instrument 'identification report' for an environmental infringement. In total, this new instrument was only used 292 times, which is an average use of 0.48% compared to the total number of inspections during which an infraction was identified. However, a 104% increase was recorded in the number of identification reports drawn up in the studied period (from 54 in 2010 to 110 in 2013). However, there is a discrepancy between the number of identification reports indicated by the supervisors (292) and the number which the Environmental Enforcement, Environmental Damage and Crisis Management Division received in the period 2010-2013 in view of the imposition of an exclusive administrative fine, namely 210.

In the period 2010-2013, an official report was drawn up for on average 1/5 of the inspections during which an infraction was identified. Despite the fluctuations in the number of inspections during which an infraction was identified, the number of official reports that were drawn up remained fairly stable in the studied period. A slight 14% increase could be recorded (from 2,121 in 2010 to 2,418 in 2013). On the other hand, the percentage use of the instrument in relation to the number of inspections during which an infraction was identified decreases slightly, which means that, percentage-wise, fewer and fewer official reports are drawn up. This points to a pragmatic approach to Article 29 of the Code of Criminal Procedure which stipulates that when an offence is identified an official report is to be drawn up.

With regard to the ratio between priority official reports and non-priority official reports (cf. Priorities Document on the Prosecution Policy for Environmental Law in the Flemish Region) it could be concluded for 2013 that 55% of the total number of official reports that are drawn up are priority official reports.

In the period 2010-2013 a total of 2,256 administrative measures were imposed by the supervisors on a total of 48,239 inspections during which an infraction was identified (compared to the total number of inspections of 138,101). This is a ratio of almost 5%. However, a low decrease can be found in the number of administrative measures that were imposed each year. This is a decrease of 5% (from 657 in 2010 to 626 in 2013). On average half of the administrative measures imposed in the period 2010-2013 were regularisation orders, although this number increased every year. At the same time it could be concluded that 159 appeals were lodged against the 2,256 administrative measures imposed in the studied period. This is an average appeal rate of 7%. 79% of these appeals were declared admissible, of which only 14% were declared fully well-founded and 18% partially well-founded. In the period 2010-2012 the Minister for Environment always reached a decision on the submitted appeals within the term laid down by Flemish Parliament Act. In 2013, a decision was not reached in time for one appeal case. During the studied period, 32 appeals were submitted against refused petitions for the imposition of administrative measures. 84% of these appeals were declared admissible, of which only 7% were declared fully well-founded and 26% partially well-founded. Only in one case did the Minister for Environment not reach a decision within the indicative period laid down by Flemish Parliament Act.

The instrument 'safety measure' was discussed as well. In total, 431 safety measures were imposed by supervisors in the period 2009-2013. Compared to 2009 a 30% increase can be calculated in the number of imposed safety measures (from 97 in 2009 to 126 in 2013). Most of these safety measures were imposed by local supervisors, i.e. 55%. In addition, it could be established that 27% of the safety measures were imposed by local police supervisors. Most of the imposed safety measures, i.e. 47%, concerned the suspension or execution of works, actions or activities.

5.3 Imposition of sanctions

The fourth chapter focused on the imposition of criminal and administrative sanctions. It could be concluded, for instance, that the criminal divisions of the public prosecutor's offices in the Flemish Region recorded fewer and fewer environmental enforcement cases in the studied period. The decrease amounted to 27% in the period 2010-2013 (from 6,367 cases in 2010 to 4,621 in 2013). This decrease could mainly be attributed to the decrease in the number of environmental enforcement cases referred by the general police forces. This could possibly be explained by the fact that during the past years 'nuisance' has been increasingly dealt with through municipal administrative sanctions, and by the fact that the general police forces have thus drawn up fewer official reports for environment-related cases. However, most of the environmental enforcement cases still originate from the general police forces, i.e. on average 65%. In addition, on average 30% originated from the inspection services in the period 2009-2013.

With regard to the inflow of cases in the criminal divisions of the public prosecutor's offices in the Flemish Region, it can also be concluded that the percentage share of cases originating from the Flemish inspection services compared to the total number of recorded cases increased slightly in the period 2009-2013. It can also be concluded that most of the environmental enforcement cases recorded in the studied period referred to waste, namely on average 44%. More concretely, it could even be observed that an average of 31% of all environmental enforcement cases in the period 2009-2013 referred to illegal dumping. On average 1 in 3 cases recorded by the criminal divisions of the public prosecutor's offices in the Flemish Region in the period 2009-2013 thus referred to illegal dumping. The cases referring to air/water/soil/noise amounted to 21% on average, although this number decreased year after year. On the other hand, the cases referring to licences increased year after year and accounted for an average ratio of 16%. For the cases referring to nature protection and manure an average ratio of 15% and 4% respectively could be calculated.

When looking back to Chapter 2 and the large number of known unlicensed plants it may be considered a positive thing that the number of cases with the charge code 'Operation of an unlicensed plant' increased during the studied period. This indicates that - despite the number of known unlicensed nuisance-causing plants which is still high - the supervision was increasingly focused on these plants during the past year.

With regard to the state of progress it could be established that on average 29% of the number of environmental enforcement cases were still in the state of progress 'preliminary investigation' on the extraction dates in the period 2009-2013. More than half, or 55% on average, remained without further action/were dismissed. On average 5% was referred, for on average 6% of the cases an amicable settlement was proposed and a writ of summons was already issued for 4% on average.

With regard to the dismissed environmental enforcement cases it could be concluded on the basis of the figures from the public prosecutor's offices that the dismissal percentage strongly increased in the period 2009-2012, but slightly decreased again in 2013 (2009: 41% of the number of environmental enforcement cases, 55% in 2010, 59% in 2011, 61% in 2012 and 58% in 2013). With regard to the dismissed environmental enforcement cases it could be established that the share of technical dismissals remained fairly stable during the studied period (on average 37%), whereas the share of opportunity-based dismissals strongly decreased (from 36% in

2009 to 15% in 2012-2013). On the other hand, the share of dismissals for other reasons strongly grew in the studied period. In 2009, 1/4 of the number of cases without further action were dismissed for other reasons, whereas in 2013 almost half of the dismissed cases were left without further action for other reasons. One of these other reasons is the public prosecutor's decision to refer the case in view of the imposition of an administrative fine.

The growing number of dismissals for other reasons is confirmed by the figures from the Environmental Enforcement, Environmental Damage and Crisis Management Division. In fact, in the period 2009-2013 this Division received a total of 6,140 cases from the criminal divisions of the public prosecutor's offices in the Flemish Region. In 2009, this number amounted to 304 cases. In 2010 and 2011, this number increased substantially, namely respectively 1,100 and 1,594 received cases. Since then, this number remained stable, with 1,545 and 1,594 cases received in 2012 and 2013 respectively. The percentage share of the number of environmental enforcement cases referred by the public prosecutor's offices to the AMMC clearly reveals a constant growth since the entry into effect of the Environmental Enforcement Act. Compared to 10% in 2009, 17% in 2010, 26% in 2011 and 31% in 2012, the percentage in 2013, i.e. 34.5%, shows that the growing trend continued. Almost half of the cases received by the AMMC originated from the local police (48%) and 40% referred to official reports drawn up by regional supervisors. With regard to environmental themes it could be established that on average 40% referred to waste, 23% to nature protection, 16% to emissions, 15% to licences and 5% to manure.

The flow of cases with the AMMC mainly revealed a clear improvement last year. Still, this year as well an increase can be observed. Whereas last year it was concluded that a decision was taken in 48% of the total number of cases, this number amounted to 58% of processed cases on the total number of cases at the end of 2013. This shows that the administrative transaction, among other things, which was used 464 times since it was introduced and has a payment degree of more than 80%, is a very efficient instrument. With regard to the exclusive administrative fines it could be established that in the period 2009-2013 the AMMC received a total of 210 identification reports. 80% of these identification reports were drawn up by regional supervisors, 16% by local police supervisors and 4% by municipal supervisors. Most of the identification reports were drawn up in the context of waste, i.e. 77%, 9% in the context of emissions, 5% in the context of nature protection and 9% in the context of licences.

During the studied period, the AMMC reached a decision in 81% of these 210 cases. 143 exclusive administrative fines were imposed. In 2013, the new instrument of the administrative transaction was used 12 times in the framework of identified environmental infringements.

In the period 2009-2013, the Environmental Enforcement Court received a total of 213 appeals against alternative administrative fines imposed by the AMMC. As a result, an appeal rate of 8% could be calculated in the studied period. In addition, the Environmental Enforcement Court received 17 appeals against exclusive administrative fines imposed by the AMMC during the studied period, which comes down to an appeal rate of almost 12%.

A last part in the section of the evaluation of the sanctions policy has to do with the activities of the VLM in the context of their authority to impose administrative fines. It could be concluded that in the period 2009-2013 a total of 17,398 fines were imposed following field identifications and administrative inspections of the database.

5.4 Recommendations

By virtue of Article 16.2.5 of the Environmental Enforcement Act the VHRM formulates recommendations in the Environmental Enforcement Report for the further development of the environmental enforcement policy. One of the duties assigned to the VHRM is to propose main lines and priorities for the policy on environmental law enforcement. In this synthesis report as well the VHRM will formulate recommendations on the basis of the data given in the previous chapters with regard to the first five years of implementation of the Environmental Enforcement Act. Some of these recommendations are not new and are repeated each year. Also, recommendations can now be formulated with regard to the trends that revealed themselves during the past five years.

Supervision

1. Dedicating sufficient personnel to enforcement duties and making continued efforts

It shows from this synthesis report of the previous five years of environmental enforcement that the number of regional supervisors increased during the past five years, whereas the FTEs dedicated by regional enforcement bodies decreased. The average number of FTEs dedicated to enforcement duties per regional supervisor decreased and only amounted to 0.22 FTEs in 2013. This would mean that regional supervisors dedicate just a little more than one day per week to enforcement duties. By way of comparison, it can be communicated that in the period 2009-2013, an average of 0.26 FTEs were dedicated to enforcement duties per regional supervisor, 0.27 FTEs per municipal supervisor and 0.43 FTEs per local police supervisor. Therefore, the VHRM recommends that sufficient personnel be dedicated to carrying out the duties of regional enforcement bodies. The VHRM also recommends that all supervisory bodies continue to make efforts to guarantee the FTEs dedicated to supervision and to increase them if necessary.

2. Permanent monitoring of the quality and content of inspections

Despite the fact that regional supervisors (statistically speaking) can dedicate fewer FTEs to enforcement duties, the number of environmental enforcement inspections carried out during the studied period increased by 13% (on average 41 inspections per regional supervisor per year, and on average 175 inspections per FTE per year). It could be deduced from this that the nature of the inspections has changed (for instance more inspections which require less preparation or during which identifications are made smoothly and without any problems). Another possibility is that supervisors increasingly familiarised themselves with the provisions of the Environmental Enforcement Act and the Environmental Enforcement Decree over the past years. In fact, a greater expertise of the legislation, procedure and instruments could allow for more inspections to be carried out in less time. The VHRM recommends in any case that the quality and content of the inspections be constantly monitored.

3. Local police supervisors

A general conclusion that can be drawn from the figures is that a growing number of police districts appoint a supervisor. At the same time it can be concluded that more and more supervisors are appointed within the police districts and that more and more police districts appointed a supervisor. In addition, an increase can be observed in the FTEs dedicated to enforcement duties by local police supervisors, as well as in the number of (proactive) inspections carried out by them. The average number of inspections per local police supervisor during the studied period amounted to 85 per year and the average number of inspections per FTE to 201. This evolution is definitely to be encouraged. Local police supervisors have a tradition in enforcement. It is definitely a positive fact that this tradition is also extended to environmental law enforcement.

4. Specification of a number of FTEs instead of number of supervisors per municipality

Contrary to this increasing number of environmental enforcement activities within local police forces a falling trend can be recorded for municipal supervisors. Not only the number of municipal supervisors decreased from 269 in 2010 to 247 in 2013, but also the number of FTEs dedicated to enforcement duties (from 64.17 FTEs in 2010 to 57.15 FTEs in 2013), as well as the number of performed environmental enforcement inspections, albeit less strongly (from 5,649 in 2010 to 4,657 in 2013). Both evolutions can be explained by the more frequent use of environmental enforcers through the police districts (see previous recommendation) and by the uncertainty following the White Paper on the Internal Reform of the Federated State of Flanders. The average number of inspections per municipal supervisor during the studied period amounted to 21 per year and the average number of inspections per FTE to 80 per year. In some municipalities supervisors were appointed for appearance's sake, which means that these supervisors dedicated no or very little time to enforcement duties and carried out no or only few environmental enforcement inspections. Currently, the Environmental Enforcement Act only specifies the number of supervisors which a municipality should have at its disposal and not the number of FTEs that are to be dedicated to enforcement duties within a municipality. However, it is not simple to work out a system which also guarantees the desired input.

5. Further exploration of intermunicipal cooperation

Furthermore, it could be established with regard to the local supervision that the organisation of intermunicipal associations regarding environmental enforcement is still in its infancy. A number of intermunicipal associations have started up enforcement activities, but the implementation has not gotten into its stride yet with most of them. Therefore, the VHRM recommends that the intermunicipal associations continue to develop their organisation regarding environmental enforcement as well as existing initiatives.

Therefore, specifically within the framework of local environmental enforcement and the local supervisors, the VHRM recommends to examine in those municipalities which have appointed a supervisor for appearance's sake how intermunicipal cooperation or cooperation with the local police can be developed and encouraged. It seems advisable, especially for smaller municipalities, to make more frequent use of supervisors who are appointed via intermunicipal associations. The use of an intermunicipal association may result in an increased scale in terms of expertise and spatial employability, which will benefit the quality and effectiveness of enforcement. Precisely because in smaller municipalities supervisors often do not have any FTEs to actually dedicate to supervision (and supervision is often to be combined with other duties), the use of an intermunicipal association may increase the effectiveness of enforcement for small municipalities. Therefore, the VHRM recommends the Government of Flanders to encourage smaller municipalities to join such intermunicipal associations, with an eye to receiving support in terms of environmental enforcement. A similar recommendation is to further structure the development of intermunicipal associations in the field of environmental enforcement.

6. Examination of competences of provinces and opportunities for implementation

Another conclusion with regard to environmental enforcement in the provinces is that the role of provincial supervisors has not yet reached its full development. In only one province supervisors were appointed and a limited number of inspections were carried out. The other provinces have not yet taken up their enforcement duties. Therefore, the VHRM recommends that these duties and the way in which they can be implemented are more closely examined.

7. Emphasis on programme-based (proactive) enforcement

In the studied period, an infraction was identified during 35% of the inspections. This relatively high compliance rate can point to the fact that a lot of plants and citizens comply with the environmental regulations. On the other hand, it could also mean that there is a lack of targeted supervision and a risk-oriented approach. Therefore, the VHRM recommends that supervisors enforce increasingly through

programmes and focus their enforcement activities - more specifically the proactive supervision - more on those aspects during which an infraction can be expected.

Instruments

8. Development of monitoring system

During the evaluation of the instruments a number of shortcomings could be identified in the monitoring system of the enforcement bodies. For instance, there was a discrepancy between the number of identification reports drawn up and the number of identification reports received by the AMMC. In addition, it could be established that during the period 2010-2013 the result was unknown for on average 11% of the total number of performed inspections. This means that not all enforcement bodies could indicate which further action was taken by the supervisor for the identified infractions. This lack of monitoring jeopardises an adequate follow-up. Therefore, the VHRM recommends that, insofar as this has not been done yet, the enforcement bodies develop an adequate monitoring system, which is also important within the framework of the recommendation of programme-based enforcement.

9. Also focus on environmental infringements

With regard to the identification report, it could also be established that during the studied period very little use was made of the identification report for the identification of an environmental infringement. As a result, environmental infringements were hardly identified and official reports were hardly drawn up. The question could be raised as to whether this points to a prioritisation of environmental violations and this therefore means that these specific environmental infringements are not prioritised. On the other hand, there is also the possibility that supervisors opt for other instruments, such as an exhortation, when they identify environmental infringements, in order to give the party concerned the time to take remedying action, rather than to immediately draw up an identification report. It should be stressed, however, that the decriminalisation should not result in environmental infringements no longer or not sufficiently being inspected in view of an effective enforcement. Therefore, the VHRM recommends to inspect these decriminalised infringements, in addition to the inspection of environmental offences. Another (and maybe more self-evident) reason for the low number of identified environmental infringements is that the number of violations that are categorised as environmental infringement was fairly limited during the considered period (for instance in nature protection law). The extension of the definition of environmental infringements and the resulting decriminalisation may cause the number of identification reports to grow over the coming years. In this context the VHRM recommends to treat the decriminalisation with caution, since there is a concern that more serious shortcomings will be decriminalised. It must also be examined how the police can take action when environmental infringements are identified.

10. Locally: mapping the plants on the local territory

This synthesis report also pointed to the large number of unlicensed nuisance-causing plants in Flanders and showed that municipalities often do not know how many Category 1, 2 and 3 plants are on their territory. The VHRM recommends the three levels of government to continue to work on an environmental licences database and the supervisors to prioritise the mapping of the plants located on their territory. In addition, the VHRM recommends supervisors to adopt an approach (for instance, sector-based, geographical, percentage target figures per year) to increase the extent of licencing on their territory, more specifically within the framework of proactive supervision.

11. Clarification of boundaries of municipal administrative sanctions in keeping with Environmental Enforcement Act

In the studied period a decreasing number of official reports were delivered to the public prosecutor's office both by the police and by the inspection services. One possible explanation for the decreasing number of official reports, drawn up by the police forces and referred to the public prosecutor's office, is

the fact that less serious forms of public nuisance are now increasingly dealt with through the system of municipal administrative sanctions. Before that, official reports of environmental infractions were drawn up for these cases. Despite this decrease in the number of official reports illegal dumping (often referred to in municipalities as a less serious form of public nuisance to be sanctioned with a municipal administrative sanction) continues to be the infraction for which most official reports are drawn up. The VHRM recommends that the ratio between less serious types of public nuisance, to be penalised by means of a municipal administrative sanction or within the scope of the Environmental Enforcement Act, be further specified in order to allow for a clear framework of competences to be developed. Such an examination is advised, since there still seems to be a great lack of clarity in this context.

12. Opportunity-based dismissals

In the studied period the number of cases which the criminal divisions of the public prosecutor's offices in Flanders referred to the AMMC in view of the imposition of an administrative fine strongly increased. The number of cases processed by the AMMC and the number of imposed administrative fines also grew from 2012 onwards. This indicates that one of the objectives of the Environmental Enforcement Act is actually being implemented. Today, the public prosecutor's offices can indeed dedicate more time to more serious environmental offences. Furthermore, through the imposition of an administrative fine, adequate action is also taken for the other offences. It could also be concluded that all public prosecutor's offices use the possibility of referring cases and that the number of opportunity-based dismissals strongly decreased during the studied period. The decrease in the number of dismissals for opportunity-based reasons (and the parallel increase in the number of cases referred to the AMMC) evolves in the right direction, but should ideally speaking evolve towards 0: if a public prosecutor's office would consider dismissing a case for that reason, it seems more advisable to have the case referred to the AMMC for the imposition of an administrative sanction.

13. The change of the deprivation of net benefits into the deprivation of gross benefits and the impact thereof on the use of the instrument.

Following a very recent change in the Flemish Parliament Act, which also received a positive opinion from the VHRM, the instrument of the deprivation of benefits was adjusted. It is currently possible to link a deprivation of gross benefits to the imposed administrative fine, whereas in the past this was limited to a deprivation of net benefits. However, the figures from the previous Environmental Enforcement Reports showed that the application of the deprivation of net benefits was rather limited. It deserves recommendation to examine in the next Environmental Enforcement Reports whether the implemented change will lead to a greater use of the instrument of the deprivation of benefits.

14. Monitoring the Priorities Document and calling on all enforcement bodies to keep a record of this.

In order to be able to examine which impact the protocol "Priorities Document on the Prosecution Policy for Environmental Law in the Flemish Region" has, each body (police - supervisors - public prosecutor's offices - AMMC) must keep a record of how many official reports are referred to as priority official reports and which further action (criminal/administrative sanction) is taken with regard to them. For the next survey, the VHRM will again ask all enforcement bodies to make a subdivision between priority and non-priority official reports and to carefully keep a record of these data.

15. It is recommended for future reports to also communicate the state of affairs regarding the state of progress of the environmental enforcement cases recorded by the criminal divisions of the public prosecutor's offices in the Flemish Region on the basis of more recent data extractions. This will allow for the different trends to be explained. Naturally, the number of cases in the state of progress 'preliminary investigation' will be lower and the further progress of environmental enforcement cases will be outlined more completely (to a lesser extent for more recent years).

16. Application of Salduz (Act of 13 August 2011) and interrogation to be held - examination of additional workload

The Act of 13 August 2013⁹¹ was introduced following the so-called *Salduz* ruling by the European Court of Human Rights of 27 November 2008 and similar rulings. What follows from this ruling on the basis of Article 6 of the ECHR is that a suspect must benefit from the assistance of a lawyer already at the initial stages of police interrogation. Meanwhile, a European Directive has also been created which refines this obligation even more and announces new amendments to the law⁹². For this reason a further examination of the impact within environmental enforcement and the shifting workload is a recommended line of reasoning.

17. Enforceability of regulation

Due to the complex nature of environmental legislation, problems regularly occur with regard to the actual enforcement. For instance, a recent change in the identifications of noise nuisance originating from electronically amplified music - which has become effective on 1 January 2013 - turns out to cause a lot of problems in terms of its application, in the sense that hardly any new identifications are made⁹³. This may serve as an example for checking the practical enforcement of environmental legislation.

18. Information gathering

Recently, the policy information cycle has been changed⁹⁴. There are some indications that it would be best to consider the need for information management regulation. Currently, a lot of questions and problems exist with regard to the exchange of administrative and judicial information. Everyone has their own database, which is not always beneficial for the enforcement, and possibly also the safety of supervisors. In particular the knowledge of the existence of ongoing cases with other services may prevent unnecessary inspections. The exchange of information within an international context (border municipalities) requires further examination as well.

⁹¹ Act of 13 August 2011 modifying the Code of Criminal Procedure and the Act of 20 July 1999 on pre-trial detention to grant rights to everyone who is interrogated and who is deprived of their liberty, including the right to consult a lawyer and be assisted by him, Belgian Official Journal of 5 September 2011, modified by the Act of 25 April 2014 on various provisions regarding justice, Belgian Official Gazette of 14 May 2014

⁹² DIRECTIVE 2013/48/EU of the European Parliament and of the Council of 22 October 2013 on the right of access to a lawyer in criminal proceedings and in European arrest warrant proceedings, and on the right to have a third party informed upon deprivation of liberty and to communicate with third persons and with consular authorities while deprived of liberty, (publication date 6 November 2013)

⁹³ See Government of Flanders Decree of 17 February 2012 modifying the Royal Decree of 24 February 1977 on the definition of noise standards for music in public and private facilities, modifying the Government of Flanders Decree of 6 February 1991 laying down the Flemish regulations on the environmental licence and modifying the Government of Flanders Decree of 1 June 1995 on general and sectoral provisions regarding environmental hygiene, with respect to the maximum noise level of music in facilities, Belgian Official Gazette of 29 March 2012.

⁹⁴ Act of 18 March 2014 on police information management and modifying the Act of 5 August 1992 on the police office, the Act of 8 December 1992 for the protection of private life with respect to the processing of personal details and the Code of Criminal Procedure, Belgian Official Journal of 28 March 2014.

ANNEXES

1. Glossary of terms - abbreviations

Enforcement actors and institutions

- ALBON: Afdeling Land en Bodembescherming, Ondergrond en Natuurlijke Rijkdommen van het departement Leefmilieu, Natuur en Energie (Land and Soil Protection, Subsoil and Natural Resources Division of the Department of Environment, Nature and Energy)
- AMI: Afdeling Milieu-inspectie van het departement Leefmilieu, Natuur en Energie (Environmental Inspectorate Division of the Department of Environment, Nature and Energy)
- AMMC: Afdeling Milieuhandhaving, Milieuschade en Crisisbeheer van het departement Leefmilieu, Natuur en Energie (Environmental Enforcement, Environmental Damage and Crisis Management Division of the Department of Environment, Nature and Energy)
- AMV: Afdeling Milieuvergunningen van het departement Leefmilieu, Natuur en Energie (Environmental Licences Division of the Department of Environment, Nature and Energy)
- ANB: Agentschap voor Natuur en Bos (Agency for Nature and Forests)
- AWW: Agentschap Wegen en Verkeer (Agency for Roads and Traffic)
- VAZG: Agentschap Zorg en Gezondheid (Agency for Care and Health)
- MHHC: Milieuhandhavingscollege (Environmental Enforcement Court)
- MOW: Departement Mobiliteit en Openbare Werken (Department of Mobility and Public Works)
- OVAM: Openbare Vlaamse Afvalstoffenmaatschappij (Public Waste Agency of Flanders)
- SG: Secretary-General of the Department of Environment, Nature and Energy
- VHRM: Vlaamse Hoge Raad voor de Milieuhandhaving (Flemish High Council of Environmental Enforcement)
- VLM: Vlaamse Landmaatschappij (Flemish Land Agency)
- VMM: Vlaamse Milieumaatschappij (Flemish Environment Agency)
- VVP: Vereniging van Vlaamse Provincies (Association of Flemish Provinces)
- VVSG: Vereniging van Vlaamse Steden en Gemeenten (Association of Flemish Cities and Municipalities)

Environmental enforcement terminology

- DABM Flemish Parliament Act of 5 April 1995 containing general provisions on environmental policy
- GAS Gemeentelijke Administratieve Sanctie (Municipal Administrative Sanction)
- MHR Milieuhandvingsrapport (Environmental Enforcement Report)
- PV Proces-verbaal (Official report)

Other

- ANG Algemene Nationale Gegevensdatabank (General National Database)
- AGR-GPS Any means of transport used by a recognised Category B or Category C manure transporter for the transportation of manure or other fertilisers must be AGR-GPS compatible at all times.

This AGR-GPS compatibility means that all recognised means of transport must be fitted with AGR-GPS equipment that is part of an operational AGR-GPS system. In addition, the signals sent by this equipment via a computer server which is managed by a GPS service provider, must be directly and immediately sent to the Manure Bank.
- B.S. Belgian Official Journal
- ECO-form Document which is completed by the police during waste shipment inspections and then sent to the central Environment Service in the framework of centralised data collection. Besides the purpose of control of individual shipments, the data are used to perform operational and strategic analyses.
- PIVO Provinciaal Instituut voor Vorming en Opleiding (Provincial Institute for Training and Education)
- REA/TPI National IT programme for courts of first instance with applications for criminal divisions of public prosecutor's offices and registries, youth court prosecutors and registries, civil registries
- FTE Full-time equivalents
- / Not available

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4. List of responding municipalities

Aalst	Deerlijk	Herne	Leuven
Aalter	Deinze	Herzele	Lichtervelde
Alken	Dendermonde	Heusden-Zolder	Lier
Antwerp	Dentergem	Hoeilaart	Lierde
Anzegem	Dessel	Hoeselt	Lint
Ardooie	Destelbergen	Holsbeek	Linter
Arendonk	Diepenbeek	Hooglede	Lochristi
As	Diest	Hoogstraten	Lokeren
Asse	Dilbeek	Horebeke	Londerzeel
Assenede	Dilsen-Stokkem	Houthulst	Lo-Reninge
Avelgem	Drogenbos	Hove	Lubbeek
Baarle-Hertog	Duffel	Huldenberg	Lummen
Balen	Eeklo	Hulshout	Maarkedal
Beerse	Erpe-Mere	Ingelmunster	Maaseik
Beersel	Evergem	Izegem	Maldegem
Begijnendijk	Gavere	Jabbeke	Malle
Beringen	Geel	Kapellen	Mechelen
Berlare	Geetbets	Kasterlee	Meerhout
Bertem	Genk	Keerbergen	Meeuwen-Gruitrode
Bierbeek	Ghent	Kinrooi	Meise
Bilzen	Geraardsbergen	Knesselare	Menen
Blankenberge	Goik	Koekelare	Merchtem
Bonheiden	Grobbendonk	Koksijde	Merelbeke
Boom	Haacht	Kortemark	Merksplas
Boortmeerbeek	Haaltert	Kortenaken	Meulebeke
Borgloon	Halle	Kortenberg	Middelkerke
Bornem	Ham	Kortesseem	Mol
Borsbeek	Hamme	Kortrijk	Moorslede
Boutersem	Hamont-Achel	Kraainem	Mortsel
Brakel	Harelbeke	Kruishoutem	Nazareth
Brasschaat	Hasselt	Laakdal	Neerpelt
Brecht	Hechtel-Eksel	Laarne	Nevele
Bredene	Heers	Lanaken	Niel
Bree	Heist-op-den-Berg	Landen	Nieuwpoort

Bruges	Hemiksem	Langemark-Poelkapelle	Nijlen
Damme	Herent	Lebbeke	Ninove
De Panne	Herentals	Lendeledede	Oostkamp
De Pinte	Herenthout	Leopoldsburg	Oostrozebeke
Opglabbeek	Rumst	Tongeren	Wortegem-Petegem
Opwijk	Schelle	Torhout	Zandhoven
Oudenaarde	Scherpenheuvel-Zichem	Tremelo	Zedelgem
Oudenburg	Schoten	Turnhout	Zelee
Oud-Heverlee	Sint-Amands	Veurne	Zelzate
Oud-Turnhout	Sint-Genesius-Rode	Vilvoorde	Zemst
Overijse	Sint-Gillis-Waas	Vleteren	Zingem
Pittem	Sint-Katelijne-Waver	Voeren	Zoersel
Poperinge	Sint-Laureins	Vorselaar	Zomergem
Putte	Sint-Lievens-Houtem	Vosselaar	Zonhoven
Puurs	Sint-Niklaas	Waregem	Zonnebeke
Ranst	Sint-Pieters-Leeuw	Wervik	Zoutleeuw
Ravels	Sint-Truiden	Westerlo	Zuienkerke
Retie	Staden	Wetteren	Zulte
Rijkevorsel	Steenokkerzeel	Wevelgem	Zwalm
Roeselare	Temse	Wichelen	Zwevegem
Ronse	Tervuren	Wijnegem	Zwijndrecht
Roosdaal	Tessenderlo	Willebroek	
Rotselaar	Tielt-Winge	Wingene	
Ruiselede	Tienen	Wommelgem	

5. List of responding police districts

Police district Aalst	Police district Het Houtsche
Police district Aarschot	Police district Hoegaarden/Tienen
Police district Arro Ieper	Police district Houthalen-Helchteren
Police district Assenede/Evergem	Police district KASTZE
Police district Balen/Dessel/Mol	Police district Kempen N-O
Police district Beringen/Ham/Tessenderlo	Police district Kempenland
Police district Berlaar/Nijlen	Police district Klein Brabant
Police district Berlare/Zele	Police district K-L-M
Police district Beveren	Police district Lanaken-Maasmechelen
Police district Bierbeek/Boutersem/Holsbeek/Lubbeek	Police district Landen
Police district Bilzen/Hoeselt/Riemst	Police district Leuven
Police district Blankenberge/Zuienkerke	Police district Lier
Police district Boortmeerbeek/Haacht/Keerbergen	Police district Lokeren
Police district Brasschaat	Police district LOWAZONE
Police district Bredene/De Haan	Police district Maasland
Police district BRT	Police district Maldegem
Police district Bruges	Police district Mechelen
Police district Buggenhout/Lebbeke	Police district Meetjesland-Centrum
Police district Damme/Knokke-Heist	Police district Middelkerke
Police district Deinze/zulte	Police district MIDOW
Police district Demerdal - DSZ	Police district MINOS
Police district Denderleeuw/Haaltert	Police district MIRA
Police district Dendermonde	Police district Neteland
Police district Dijleland	Police district Noord
Police district Dilbeek	Police district Noordoost-Limburg
Police district Druivenstreek	Police district Oostende
Police district Gavers	Police district Pajottenland
Police district Geel/Laakdal/meerhout	Police district Polder
Police district Grens	Police district Region Rhode en Schelde
Police district Grensleie	Police district Region Tielt
Police district Grimbergen	Police district Region Turnhout
Police district Hageland	Police district RIHO
Police district Halle	Police district Rode
Police district HANO	Police district Ronse

Police district Hazodi	Police district Rupel
Police district Heist	Police district Schelde-Leie
Police district Hekla	Police district Sint-Gillis-Waas/Stekene
Police district HERKO	Police district Sint-Niklaas
Police district Sint-Pieters-Leeuw	Police district Westkust
Police district Sint-Truiden/Nieuwerkerken/Gingelom	Police district West-Limburg
Police district Spoorkin	Police district Wetteren/Laarne/Wichelen
Police district TARL	Police district Willebroek
Police district Tongeren/Herstappe	Police district WOKRA
Police district Vilvoorde/Machelen	Police district ZARA
Police district Vlaamse Ardennen	Police district Zaventem
Police district VLAS	Police district Zottegem/Herzele/Sint-Lievens-Houtem
Police district Voeren	Police district Zuiderkempen
Police district Voorkempen	

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