



**Flanders**  
State of  
the Art

# **Environmental Enforcement Report 2016**

## PREFACE

Welcome to the eighth environmental enforcement report of the Flemish High Enforcement Council for Spatial Planning and the Environment (VHRM). The year 2016 is again the subject of our annual environmental enforcement report, which provides an overview of the enforcement activities of the various bodies during the past year. As in previous years, the various chapters provide the reader with a detailed statistical view of the Flemish environmental enforcement landscape in all its facets.

New this year is that, in addition to presenting quantitative data, the VHRM has also highlighted a number of qualitative achievements of a number of bodies with the aim of making environmental enforcement practice more concrete. In addition, a new chapter reports on the various environment-related activities carried out by the VHRM in 2016.

Once again, I would like to thank all the responding enforcement bodies very warmly for their efforts, their monitoring and their reporting. A rather regrettable comment on this environmental enforcement report concerns the response rate of the municipalities. This is significantly lower than in previous years, which unfortunately does not improve the representativeness of the figures. The VHRM will therefore evaluate the possible causes of this falling response rate and will adjust this where possible. For subsequent reports, the VHRM hopes in any event to receive the enthusiastic response of previous years.

After the first Spatial Planning Enforcement Report for 2015, the Flemish High Enforcement Council may also present the second Spatial Planning Enforcement Report for 2016 this year, for the time being in a separate document. Based on the baseline measurement that was the first report, this second report, can, for the first time, carry out a comparative analysis of the figures of the enforcement landscape with regard to Spatial Planning.

In 2016, too, an enforcement network day was successfully organised for the enforcement bodies in the environment and spatial planning domains, this time concentrating on 'Customer-focused Enforcement'. Through a number of active workshops, supervisors of both environmental and spatial planning received various practical tips that they could use in their daily enforcement practice. This networking day, which brings the two worlds together, will certainly be repeated.

On 1 April 2017, the Department of the Environment was created, within the new policy area of the Environment, through the merger of the Department of the Environment, Nature and Energy with the Department of Ruimte Vlaanderen. This led to structural changes for a number of regional enforcement bodies that have been included in this report since 2009. However, the new sections will only be presented as such as from the next environmental enforcement report, as this report relates to enforcement activities in 2016.

Prof. Dr Michael G. Faure LL.M.  
Chair of the Flemish High Enforcement Council for Spatial Planning and the Environment

## CONTENT

Preface	2
Content	3
1 Introduction	5
1.1 Flemish parliament act of 5 april 1995 containing general provisions on environmental policy	5
1.2 Methodology and relevance of the environmental enforcement report 2016	7
1.2.1 Methodology	7
1.2.2 Structure	8
1.2.3 Notes	9
1.3 Environmental enforcement policy	11
2 Evaluation	13
2.1 Evaluation of the regional environmental enforcement policy	13
2.1.1 Regional supervisors	13
2.1.2 Efforts related to environmental enforcement duties	15
2.2 Evaluation of the environmental enforcement policy pursued by the police	23
2.2.1 In general	23
2.2.2 Evaluation of the environmental enforcement policy pursued by the federal police	24
2.2.3 Evaluation of the environmental enforcement policy pursued by local police forces	27
2.3 Evaluation of the pursued local environmental enforcement policy	34
2.3.1 Provincial governors	34
2.3.2 Provincial supervisors (supervision pursuant to the Environmental Enforcement Decree)	35
2.3.3 Competences of provinces regarding unnavigable watercourses (other than those included in the Environmental Enforcement Act) by appointed provincial staff (supervision not covered by the Environmental Enforcement Decree)	36
Flemish cities and municipalities	38
2.3.4 Mayors	38
2.3.5 Municipal supervisors	45
2.3.6 Intermunicipal associations	56
3 Evaluation of the use of the individual environmental enforcement instruments and safety measures	58
3.1 Inspections during which a breach was identified	59
3.2 Inspections without further action	61
3.3 Inspections with unknown results	63
3.4 Evaluation of the instrument 'recommendation'	65
3.5 Evaluation of the instrument 'exhortation'	67
3.6 Evaluation of the instrument 'identification report'	69
3.7 Evaluation of the instrument 'official report'	71
3.8 Evaluation of the instrument 'administrative measure' and 'appeals against decision to impose administrative measures'	74
3.8.1 Evaluation of the instrument 'administrative measure'	74
3.8.2 Appeals against decisions to impose administrative measures	78
3.9 Evaluation of the instrument 'safety measure'	82
3.10 Case study	85
4 Evaluation of the Flemish environmental sanctions policy	93
4.1 Evaluation of the criminal sanctions policy	95
4.1.1 Reception	98
4.1.2 State of progress	105
4.1.3 Reasons for dismissal	114
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	119
4.2.1 Processing of environmental offences	119
4.2.2 Processing of environmental infringements	127

4.3	Evaluation of the administration of justice by the environmental enforcement court	131
4.4	Evaluation of the sanctions policy pursued by the flemish land agency	134
5	Conclusions and recommendations	137
5.1	Efforts	137
	Regional supervisors	137
	Local and federal police	137
	Provinces	138
	Towns/cities	138
5.2	Instruments	141
	Inspections and violations	141
	Recommendations and warnings	141
	Incident reports and official reports	142
	Administrative and safety measures	142
5.3	Imposition of sanctions	143
5.4	Recommendations	146
	I. Local supervisors	146
	II. Risk-oriented supervision and programme-based enforcement	147
	III. Monitoring	148
	IV. Failure to implement administrative measures on time	149
	V. Environmental enforcement as a task for the police force	149
	VI. Vaststelling sluikstorten	150
6	Environmental activities of the Flemish High Enforcement Council For Spatial Planning and the Environment in 2016	151
7	Annexes	157
7.1	Glossary of terms - abbreviations	157
7.2	list of graphs	159
7.3	List of tables	160
7.4	List of responding municipalities	163
7.5	List of responding police districts	165
	Colophon	166

# 1 INTRODUCTION

## 1.1 FLEMISH PARLIAMENT ACT OF 5 APRIL 1995 CONTAINING GENERAL PROVISIONS ON ENVIRONMENTAL POLICY

The origin of the Flemish High Enforcement Council for Spatial Planning and Environment 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'<sup>1</sup>, 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' (Priorities Document on the Prosecution Policy for Environmental Law in the Flemish Region)<sup>2</sup>. In addition, various memoranda ('*Memorandum with recommendations for the person drafting an official report in the event of environmental offences*', '*Memorandum with regard to the scope of the right of access of supervisors*', etc.), templates ('*Template relating to the imposition of an official report in the event*

*of determining an environmental offence*', '*Template for drawing up an incident report in the event of determining an environmental offence*', etc.), model letters ('*Model letter for drawing up a recommendation*', '*Model letter for drawing up a warning*', etc.) and guidelines ('*Guidelines for drawing up a decision on administrative measures*', '*Guidelines for drawing up a decision on safety measures*', etc.) have been drawn up informally and are easily available to supervisors via the private section of the VHRM website. These documents are frequently consulted by the supervisors and are supplemented or amended where necessary within the working groups of the VHRM. The reason for using memoranda and models rather than formal protocols is that the latter have many formal requirements (including being signed by the ministers concerned), whereas the same can be achieved de facto with the alternative.

When (certain articles of) the decree of 25 April 2014 concerning the enforcement of the integrated environmental permit came into force on 6 September 2014, the Flemish High Council of Environmental Enforcement was transformed into the Flemish High Enforcement Council for Spatial Planning and Environment, VHRM for short. The transition from Flemish High Council of Environmental Enforcement to Flemish High Enforcement Council for Spatial Planning and Environment included an expansion of members, representatives and deputies of the VHRM, including a vice-chair expert in the area of enforcement of the Flemish Code on Spatial Planning and members and deputies proposed by the advisory council of the policy area of Spatial Planning, Housing Policy and Immovable

---

<sup>1</sup> Publication Belgian Official Journal 29 February 2009

<sup>2</sup> <http://www.vhrm.be/protocollen-0/prioriteitennota>

Heritage Policy Area and the Strategic Advisory Council for Spatial Planning and Immovable Heritage.

The composition of the plenary meeting of the Flemish High Enforcement Council for Spatial Planning and Environment was laid down in the Flemish Government Decree of 17 October 2014 on the appointment of the members of the Flemish High Enforcement Council for Spatial Planning and Environment<sup>3</sup>. The full and updated composition of the plenary meeting can be found on the VHRM3F website<sup>4</sup>. In addition to a plenary meeting, the VHRM also works with a number of working groups to investigate special issues.

Each year, the VHRM has to draw up an environmental enforcement report and every five years and environmental enforcement programme.

- ▶ The environmental enforcement programme, which was given a time frame of five years for the first time this year, contains recommendations for environmental enforcement based on the analysis of the individual programmes of all the actors subject to the Environment Enforcement Act. The Environmental Enforcement Programme 2015-2019 also contains a strategic and operational plan of the VHRM itself and concrete policy recommendations on the themes of water, waste and the exchange of information. The Environmental Enforcement Programme 2015-2019 can be found on the VHRM website<sup>5</sup> and will be updated in the course of 2017.
- ▶ 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. These environmental enforcement reports from 2009 through 2015 are available on the VHRM<sup>6</sup> website.

In addition, the VHRM is responsible for coordinating the preparation of a draft Spatial Planning Enforcement Programme. The draft of the Spatial Planning Enforcement Programme, coordinated by the Flemish High Enforcement Council for Spatial Planning and the Environment, was submitted to the office of Minister Schauvliege on 31 March 2015. The Government of Flanders adopted the Spatial Planning Enforcement Programme on 17 July 2015 and the Flemish Parliament gave its approval on 18 November 2015. Both documents can be found on the VHRM website.<sup>7</sup>

The VHRM is also responsible for drawing up an annual Spatial Planning Enforcement Report, similar to the Environmental Enforcement Report. In 2016, the VHRM drew up its first Spatial Planning Enforcement Report for the year 2015. This report shall, in view of the full entry into force of the Environmental Permit Enforcement Decree in 2018 and the changes this will bring about to the enforcement tools, serve as a baseline measurement for future reports. The VHRM is currently investigating how an integrated enforcement report can be drawn up in the coming years. Once again this year the Environmental Enforcement Report 2016 and the Spatial Planning Enforcement Report 2016 will appear as two separate documents.

---

<sup>3</sup> Publication Belgian Official Journal 4 november 2014

<sup>4</sup> <http://www.vhrm.be/leden>

<sup>5</sup> <http://www.vhrm.be/milieuhandhavingsprogramma>

<sup>6</sup> <http://www.vhrm.be/milieuhandhavingsrapport>

<sup>7</sup> <http://www.vhrm.be/programma-ruimtelijke-ordering>

## 1.2 METHODOLOGY AND RELEVANCE OF THE ENVIRONMENTAL ENFORCEMENT REPORT 2016

### 1.2.1 Methodology

The aim of the Environmental Enforcement Report is to provide a concrete picture, based on relevant, reliable figures and qualitative data, of the environmental enforcement policy that was pursued in the Flemish Region from 1 January 2016 through 31 December 2016.

In order to achieve this objective and its components laid down by Flemish Parliament Act, the VHRM, by analogy with the Environmental Enforcement Reports of 2009 and 2010, drew up a questionnaire for the environmental enforcement actors which focuses on the specific duties of each of these actors. Since 2015, the majority of the bodies have received, within the framework of 'radical digital' (cf. Coalition Agreement 2014-2019<sup>8</sup>), a digital inquiry form.

The following actors were asked about their activities in the area of environmental law enforcement between 1 January 2016 and 31 December 2016:

- ▶ the Environmental Inspectorate Division of the Department of Environment, Nature and Energy (LNE-AMI);
- ▶ the Environmental Licences Division of the Department of Environment, Nature and Energy (LNE-AMV);
- ▶ the Environmental Enforcement, Environmental Damage and Crisis Management Division of the Department of Environment, Nature and Energy (LNE-AMMC);
- ▶ the Land and Soil Protection, Subsoil and Natural Resources Division of the Department of Environment, Nature and Energy (LNE-ALBON);
- ▶ the Secretary-General of the Department of Environment, Nature and Energy ;
- ▶ the Public Waste Agency of Flanders (OVAM);

- ▶ the Flemish Land Agency (VLM);
- ▶ the Flemish Environment Agency (VMM);
- ▶ the Agency for Nature and Forests (ANB);
- ▶ Waterwegen en Zeekanaal nv (Waterways and Sea Canal Agency) (AWZ);
- ▶ the Flemish Agency for Care and Health (VAZG);
- ▶ the Agency for Roads and Traffic (AWV);
- ▶ NV De Scheepvaart (Shipping Agency);
- ▶ the Department of Mobility and Public Works (MOW);
- ▶ the Flemish mayors;
- ▶ the Flemish municipalities;
- ▶ the intermunicipal associations ;
- ▶ the Flemish police districts ;
- ▶ the federal police ;
- ▶ the Flemish provincial governors ;
- ▶ the Flemish provincial supervisors ;
- ▶ the Environmental Enforcement Court ;
- ▶ the public prosecutor's offices .

As indicated in the list above, the intermunicipal associations, active in the area of enforcing environmental law, are also asked. Indeed, the Environmental Enforcement Act stipulates that municipalities may opt to call on the services of a supervisor via an intermunicipal cooperation.

A standard questionnaire was used again in order to obtain comparable data. Among other things, questions were asked 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

---

<sup>8</sup> <http://www.vlaanderen.be/nl/publicaties/detail/het-regeerakkoord-van-de-vlaamse-regering-2014-2019>

2016 and 31 December 2016, 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 2016 and 31 December 2016.

Based on the information obtained via the standardised questionnaire, a quantitative picture will be provided of the activities of the enforcement in 2016. These figures, accompanied by explanatory text, will be displayed graphically in a graph and/or table.

Since this is already the eight Environmental Enforcement Report, a comparison will be made with the data from previous environmental enforcement reports, wherever relevant and interesting. This allows us to give a picture of the impact and implementation of the Environmental Enforcement Act.

### 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.

The focus in this second chapter is therefore mainly on the efforts made by the supervisory actors. First, an evaluation is made of the environmental enforcement policy pursued in the past calendar year by the regional supervisors, and the federal and local police, as well as of the enforcement activities performed at the local level by provincial governors, provincial supervisors, municipal supervisors and supervisors of intermunicipal associations. Figures will be provided of the number of supervisors per organisation, the number of FTEs dedicated by this supervisor/these supervisors to environmental enforcement duties within the framework of the Environmental Enforcement Act, 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 in 2016. This will also allow us to get an idea

of the number of inspections that were carried out per supervisor. With regard to the federal and local police, the types of official reports are discussed that were drawn up by the police forces in the context of environment in 2016.

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. Subsequently, the supervisory duties carried out by the Flemish cities and municipalities are studied. Where relevant, a comparison will be made with the data from the reports of previous years.

In Chapter 3 the 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 coercion, or a combination thereof), safety measures, administrative fines (and deprivation of benefits) and criminal penalties. Administrative fines, administrative transactions and criminal penalties will be discussed in a separate chapter, namely Chapter 4 'Evaluation of the sanctions policy pursued in the past calendar year'. Just like in the previous Environmental Enforcement Reports, the enforcement instruments will be compared to the number of inspections during which a breach was identified and not to the total number of inspections that were carried out. The official report and the identification report are both included in this specific evaluation of the



use of the individual environmental enforcement instruments. New in this chapter is section 3.10 Case study. The members, representatives and deputies of the VHRM were asked to provide cases for this environmental enforcement report which supplemented the statistical picture of the way in which the instruments from the Environmental Enforcement Decree are used, thus making environmental enforcement practice more concrete.

Next, Chapter 4 'Evaluation of the sanctions policy pursued over the past calendar year' provides an overview of the administrative and criminal sanctions imposed by the Flemish Land Agency (VLM) and the Environmental Enforcement, Environmental Damage and Crisis Management Division (LNE-AMMC) of the Department of Environment, Nature and Energy. An overview is also provided of the activities of public prosecutors and the Environmental Enforcement Court (MHHC).

Other types of fines can be imposed as well, such as municipal administrative sanctions (GAS) and fines in the framework of 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.

Not only will the data for 2016 be used to carry out the evaluation below, but a comparison will also be made – where possible and relevant – with the data from previous years.

In the new chapter 6, the VHRM reports on its own work in 2016 on environment-related issues. Both in the plenary meeting and in the working groups, activities were carried out that could benefit environmental

enforcement in the Flemish Region. These activities can be viewed in the context of the VHRM's strategic and operational plan, but can also be related to certain recommendations formulated by the VHRM in previous environmental enforcement reports and in the Environmental Enforcement Programme 2015-2019.

### 1.2.3 Notes

The Environmental Enforcement Act stipulates that the environmental enforcement report will contain, among other things, an evaluation of the regional environmental enforcement policy pursued over the past calendar year, a specific evaluation of the use of the individual enforcement instruments and an evaluation of the decision-making practice of the public prosecutor's offices when it comes to whether or not to prosecute an identified offence. These cannot be evaluations in the strict sense, however. In order to actually determine how effective the environmental enforcement policy is, a number of evaluation criteria should be defined beforehand. Since this is the eighth environmental enforcement report of the VHRM it is possible, however, to make an evaluation of the further implementation of the Environmental Enforcement Act and to offer an initial insight into how enforcement actors use the instruments provided to them by the Environmental Enforcement Act.

Secondly, attention should be drawn to the fact that the response rate was still not 100% for this environmental enforcement report either. Although the various relevant actors were sent an official request to participate and there is an obligation to participate for actors who are part of the Flemish Region, there was no complete response. As a result, the figures are not entirely representative and the conclusions as well should be interpreted in this light. While the response rate had been increasing in previous years, the VHRM unfortunately had to conclude that the response rate for this environmental enforcement report was significantly lower among municipalities than in previous years.

As indicated earlier in the description of the structure, the activities of local police supervisors are discussed in a separate chapter, after the activities of the federal police.

This has to do with the fact that local police forces 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 in charge of basic police services and more specifically carry out all duties of the administrative and judicial police on the territory of the police district. In this context they naturally also enforce environmental law, but not as supervisors under the Environmental Enforcement Act. For this Environmental Enforcement Report 2016 the superintendents of the Flemish police districts were asked to only report, when a supervisor or supervisors was/were appointed within the police district, about the activities of this supervisor or these supervisors. This section (2.2.3) should therefore be read together with the evaluation of the pursued local environmental enforcement policy (2.3.6).

In order not to increase the reporting burden unnecessarily, the questionnaire was only expanded, taking into account the changes to the tools, to a limited

extent compared with previous years.. However, this means that the present report can only reflect what the environmental enforcement actors and supervisors did in terms of supervision and the imposition of sanctions in 2016, not how and why they did so. As the survey was about figures and no context information was asked for, this may leave room for interpretation. Still, the members, representatives and deputies of the VHRM were given the opportunity to comment further on the content of the data after they were processed and to subsequently place the results in a broader context.

Even this eight environmental enforcement report has its limits, although it is a next step in the evaluation of the environmental enforcement policy in the Flemish Region and in the further implementation of the Environmental Enforcement Act in 2016. With the environmental enforcement report the Flemish High Enforcement Council for Spatial Planning and Environment not only tries to provide added value for policymakers, but also for the enforcement actors themselves.

### 1.3 ENVIRONMENTAL ENFORCEMENT POLICY

The Coalition Agreement of the Government of Flanders 2014-2019<sup>9</sup> contains the ambition for an increase in efficiency, and more collaboration and coordination between all agencies that have the task to enforce Flemish legislation and curb infringement. The aim is to achieve a streamlining of the procedures in the current Flemish enforcement regulations.

In addition, this coalition agreement indicates that, as part of the modernisation of the set of tools and the creation of an even more efficient government, the policy lines and priorities of the enforcement of the environmental permit will be elaborated in the enforcement programme and the instruments of administrative enforcement will be deployed optimally. In addition, the aim is for a solution-driven and customer-friendly environment administration, whereby the administrations offer and facilitate solutions to help a project move forward and act as a knowledge cell that cooperates in the formation of consensus, always with a view to the general interest. With regard to enforcement, good sense must prevail and a solution-driven and customer-friendly approach is paramount. The decree framework adopted must also support this solution-driven working method.

The VHRM has an important supporting role in this. Both the attunement of the environmental enforcement report with the Spatial planning enforcement report and the coordinating role of the council when drawing up the Spatial planning enforcement report are an implementation of the coalition agreement.

The Policy Memorandum environment 2009-2014 of the Flemish Minister Joke Schauvliege<sup>10</sup> confirms strategic and operational objectives concerning environmental enforcement which the VHRM can implement to an important degree.

Specifiek voor handhaving is strategische doelstelling 3 “Eenvoudige en doeltreffende instrumenten” zoals

verder geconcretiseerd in operationele doelstelling 14 “Verdere uitbouw gericht handhavingsbeleid” van belang.

In the policy memorandum of the Flemish Minister for General Government policy, Geert Bourgeois<sup>11</sup> links to enforcement can be found, more specifically in strategic objective 1 “A smooth and reliable service for the Government of Flanders, an innovating process management for decision-making and implementation of the Flemish Justice Department”.

This strategic objective is further developed in six operational objectives, two of which are directly related to the enforcement policy.

On the one hand, this is elaborated in operational objective 1.4: Implementation of the cooperation partnership concerning the criminal policy and the safety policy for a more coherent prosecution of breaches:

“Flanders has many powers with criminal law aspects, such as living environment, urban development, employment, traffic safety, the arms trade, youth protection and compulsory education. I shall implement the cooperation partnership concerning the criminal law policy and the safety policy so that breaches relating to Flemish powers with criminal law aspects can be prosecuted in a more coherent manner. After the sixth state reform, Flanders has been given more instruments to enforce its own legislation and to develop its own prosecution policy. I shall begin the cooperation with the Board of Procurators General as quickly as possible. I shall actively attend the meetings of the Board of Procurators General and ensure that the policy priorities of the Government of Flanders are translated as quickly as possible into directives for the criminal law policy. I shall adopt as principle in this that criminal prosecution can best be requested only for the most culpable infringements (criminal law as ultimate remedy). To prepare the directives for the strategic policy, it is

<sup>9</sup> <http://ebl.vlaanderen.be/publications/documents/60797>

<sup>10</sup> <http://ebl.vlaanderen.be/publications/documents/65581>

<sup>11</sup> <http://ebl.vlaanderen.be/publications/documents/65542>

important to designate representatives in the various thematic expertise networks and in horizontal expertise networks, such as the criminal law policy and the criminal justice system. I shall strengthen the cooperation with the federal level in the context of the security policy and make an active contribution to the Framework policy document on integral security and the national security plan. All of this implemented in close consultation with my colleagues competent for the material in question. That is why I shall set up a coordination mechanism in the Government of Flanders. That agency has the assignment to support the criminal law policy and the security policy. Using the law on positive injunctions, Flanders can order the public prosecution service to prosecute, in individual cases, a criminal law file or to apply a remedy at law. I shall apply this law on positive injunctions in a responsible way and in close consultation with the competent ministers of the material concerned.”

On the other hand, clear links are contained in operation objective 1.5 Expansion of the Flemish inspection and enforcement policy by strengthening the efficiency of and coordinating between all inspection and enforcement agencies and the streamlining of processes and procedures: “I shall lay the foundations for a Flemish inspection and enforcement policy, on the understanding that the individual inspection agencies shall continue to exist. For this, I shall implement the recommendations from the theme audit on enforcement by Audit Flanders. Within the administration, a process has been started to develop recommendations about the cross-policy areas of an inspection and enforcement policy. I am studying how the activities of that working group can be continued to develop specific proposals for increasing efficiency and increase collaboration and coordination between all

inspection and enforcement agencies. The guiding principle in this is that inspection and enforcement agencies in Flanders must satisfy six principles of good supervision: selectivity, decisiveness, collaboration, transparency, professionalism and independent operation. I shall also set a specific project group to work tasked with studying how we can streamline the inspection processes and procedures in the current Flemish enforcement regulations. For the inspection processes I am thinking, for example, about the duration and frequency of inspections, joint inspections by various agencies and the limitation of the supervision burden. I shall also aim to draw up a decree for administrative coercion which will streamline the processes and procedures for imposing administrative fines and measures. I shall increase the customer-friendliness of inspections and reduce the supervision burden of those inspected. If irregularities are identified during an inspection, the inspection agencies shall give those inspected information on how they can comply with all obligations. Sanctions shall only be imposed if the breach continues. The possibility of immediate sanctions remains for serious infringements. I shall have an inventory drawn up of methods for increasing spontaneous compliance based on literature and existing practices. The inspection and enforcement agencies shall be involved in a systematic and structural way in drawing up and amending relevant laws and legislation.”

The VHRM will, taking the context above into account, be able to make an important contribution to the implementation of both the policy memorandum of the Flemish Minister for Environment, Nature and Agriculture and the policy memorandum of the Flemish Minister for General Government Policy.

## 2 EVALUATION

The purpose of this chapter is to evaluate the Flemish environmental enforcement policy from 1 January 2016 through 31 December 2016. It reports on the enforcement and supervisory activities of the different actors who were active in the Flemish Region in 2016. Whenever possible and relevant, a comparison will also be made in terms of percentage with the data which the VHRM collected in previous Environmental Enforcement Reports.

### 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 (LNE-AMI); the Environmental Licences Division of the LNE Department (LNE-AMV); the Land, Soil Protection, Subsoil and Natural Resources Division of the LNE Department (LNE-ALBON); the Flemish Land Agency (VLM); the Flemish Environment Agency (VMM); the Flemish Agency for Care and Health (VAZG); the Agency for Nature and Forests (ANB); the Public Waste Agency of Flanders (OVAM), and Waterwegen en Zeekanaal nv (AWZ). Since 2010, following the introduction of the amendment decree of the Government of Flanders of 19 November 2010, the Agency for Roads and Traffic (AWV), the Maritime Access Division of the Department of Mobility and Public Works (MOW) and nv De Scheepvaart (Shipping Agency) 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 the questionnaire the regional supervisory bodies were therefore asked about the number of supervisors, appointed by the Government of Flanders, they had at their disposal in 2016. Table 1 shows the number of supervisors used by the regional enforcement actors in 2016. The data from the Environmental Enforcement Report 2015 and the Environmental Enforcement Report 2014 also made it possible to compare the total number of supervisors available to the supervisory body in 2014, in 2015 and in 2016.

Regional enforcement actor	Number of supervisors		
	2014	2015	2016
LNE-ALBON	15	13	13
LNE-AMI	114	117	107
LNE-AMV	84	84	84
ANB	162	162	150
AWZ	62	68	68
AWV	59	58	58
VAZG	/	18	18
NV De Scheepvaart (Shipping Agency)	30	30	30
OVAM	112	112	159
VLM	42	45	39
VMM – Division Operational Water Management	8	21	28
VMM – Division Water Reporting	14		
MOW - Division Maritime Access	9	13	11
Total	711	741	765

Table 1: Number of supervisors per regional supervisory body in 2014, 2015 and 2016

In order to consider table 1 in the right context, the following marginal comments need to be made:

- ▶ In 2016, no supervision was exercised by the Secretary-General of the Department of the Environment, Nature and Energy since, as in 2014 and 2015, there were no exceptional circumstances in which his authority had to be used in 2016. Therefore, the Secretary General of the Department of Environment, Nature and Energy is not included in the tables and graphs.
- ▶ OVAM (Public Waste Agency of Flanders) states that the higher number of supervisors at OVAM is due to the following reasons: the range of tasks of the supervisors is broad, no additional functions have been set up purely for supervision; an internal reorganisation is aimed at target groups in which the case handlers mainly monitor cases and must therefore need only perform supervisory duties to a limited extent; the possibility of having sufficient supervisors available to act in exceptional circumstances (crisis situations).

It can be deduced from table 1 that a total of 765 regional supervisors were appointed in 2016. This is a further increase compared with the 711 regional supervisors in 2014 and the 741 regional supervisors appointed in 2015. The increase in 2016 compared with 2015 can primarily be explained by the number of OVAM supervisors, which increased by 47 compared with 2015 and can be explained by the above comment by OVAM. There was also an increase in the number of supervisors at VMM (Flanders Environment Agency). For ANB (Agency for Nature and Forests), LNE-AMI (Environmental Inspection Division of the Environment, Nature and Energy Department) and VLM (Flemish Land Agency), there was, on other hand, a slight decrease in the number of supervisors.

As in previous years, the table shows the wide variety of entities within which supervisors are employed, and the differences in the number of supervisors per entity. When drawing up the Environment Enforcement Act, the intention was to increase the chance of being caught for certain offences such as, for example, dumping waste by

deploying more supervisors, an approach that is described as 'many eyes in the field'. As a consequence of this, civil servants from policy areas other than the Environment, Nature and Energy Policy Area have been designated to combat the problem of waste.

### 2.1.2 Efforts related to environmental enforcement duties

As already stated in previous environmental enforcement reports, the way in which the regional enforcement bodies organise their enforcement duties varies strongly. Some enforcement actors have appointed a lot of supervisors, while their environmental enforcement duties are rather limited. There are also bodies where the supervisors are engaged almost full-time in the implementation of environmental enforcement duties. This means that the number of appointed supervisors does not provide an accurate picture of the enforcement duties that are actually carried out. The regional supervisory authorities are therefore again requested to indicate how many full-time equivalents (FTE) were deployed in 2016 for enforcement duties. Despite the fact that the Environment

Enforcement Act does not state how many FTEs should be deployed on enforcement duties, the designated FTE can give a clearer and more balanced picture of the actual efforts in the area of environmental enforcement.

Table 2 not only gives a picture of the total amount of time the regional supervisors dedicated to environmental enforcement duties - in FTEs - in 2016, but also of the number of FTEs that were dedicated to the administrative support of environmental enforcement duties by non-supervisors. The administrative support of environmental enforcement duties pertains to the amount of time dedicated within the framework of duties relating to environmental enforcement by non-supervisors. This may involve, for example, the input of data into the case monitoring system, policy support (drawing up reports and programmes), purely administrative tasks (drafting correspondence, organisation of inspections), and legal support (elaboration of internal guidelines for supervisors). By way of comparison, the relevant data on the total FTEs dedicated to environmental enforcement duties from 2015 and 2016 are shown in table 2.

Regional Enforcement Actor	Total FTE dedicated to environmental enforcement duties			FTE dedicated by supervisors to environmental enforcement duties	FTE dedicated by non-supervisors to administrative support of environmental enforcement duties
	2014	2015	2016	2016	2016
LNE-ALBON	2.7	2.40	2.6	2.1	0.5
LNE-AMI	91.8	91.70	96.99	88.5	8.49
LNE-AMV	2	3.95	2.25	1.75	0.5
ANB	39.3	37.20	34.5	33.5	1
AWZ	0	0.01	0.01	0.01	0
AWV	1	1.00	1.2	1	0.2
VAZG	/	3.91	4.25	2.95	1.3
NV De Scheepvaart (Shipping Agency)	/	1.10	1.1	1	0.1
OVAM	9.9	8.90	10.15	7.1	3.05
VLM	27.42	30.95	33.3	33.3	0
VMM – Division Operational Water Management	0.2	0.60	0.6	0.3	0.3
VMM – Division Water Reporting	0.4				
MOW – Division Maritime Access	0	0.00	0	0	0
Total	174.72	181.72	186.95	171.51	15.44

Table 2: Efforts of the regional supervisory body related to environmental enforcement duties in 2014, 2015 and 2016

To put table 2 in its right context, the following marginal comments need to be made:

- ▶ Waterwegen en Zeekanaal (the Waterways and Sea Canal Agency) (AWZ) stated that the inspections carried out are part of the daily duties of the supervisor in the context of supervision on property/territory of the agency. It is thus difficult to state how much time (expressed in FTE) is actually spent on these inspections.

With regard to the total number of FTEs deployed on environmental enforcement tasks by the regional supervisory bodies, a positive evolution can be observed. As indicated above, not only were more supervisors appointed, but more FTEs were actually deployed on environmental enforcement duties by these supervisors. In 2016, approximately 5 more FTEs were deployed on

environmental enforcement tasks than in 2015. This increase in the number of FTEs is mainly due to LNE-AMI, OVAM and VLM.

However, for 2016 it can be seen that, as in previous years, there is a great diversity between the different regional supervisory bodies with regard to the number of FTEs used that were deployed on enforcement tasks. Certain bodies devote a large number of FTEs to enforcement tasks, while other environmental enforcement bodies devote only a limited number of FTEs to environmental enforcement tasks. For example, it may be noted that more than half the total number of FTEs deployed on environmental enforcement tasks by regional enforcement bodies was devoted by LNE-AMI, i.e. 96.99 FTEs. Other enforcement bodies devote very few, if any, FTEs to environmental enforcement tasks, such as the Maritime Access Division of MOW (Mobility



and Public Works) or AWZ (Waterways and Marine Affairs Administration). In 2016, they had 13 and 68 regional supervisors respectively at their disposal and devoted 0 and 0.01 FTEs respectively to environmental enforcement tasks. The reason is, of course, that environmental enforcement is not one of their priority tasks.

### **Number of Inspections**

In order to better contextualise the efforts in the field of environmental enforcement by the regional supervisory agencies, they were asked how many environmental enforcement inspections were carried out by these supervisors between 1 January 2016 and 31 December 2016. The definition of inspection reads as follows: “An inspection in the context of environmental enforcement is checking with a legal person and/or a natural person that is subject to legal obligations from the environmental law as to whether that legal person or natural person also actually complies with these legal obligations.”<sup>12</sup>

Table 3 provides an overview of the total number of environmental enforcement inspections carried out by the supervisors in 2016. To provide a comparison, the total number of environmental enforcement inspections carried out in 2015 and 2016 per regional supervisory body is also shown.

To put table 3 in its right context, the following marginal comments need to be made:

- ▶ Waterwegen en Zeekanaal (the Waterways and Sea Canal Agency) (AWZ) stated that the inspections carried out are part of the daily duties of the supervisor in the context of supervision on property/territory of the agency.
- ▶ VAZG (Flanders Agency for Care and Health) reported that when entering the data for 2015, it forgot to include the water quality checks of open bathing facilities and water recreation. This explains the increase in the number of checks from approximately 4,585 to 7,300 in 2016.

---

<sup>12</sup> The VHRM glossary can be found via the closed section ‘for the supervisor’ on the VHRM website:  
<http://www.vhrm.be/toezichthouders>

- ▶ LNE-AMV (Environmental Permit Division of the Environment, Nature and Energy Department) reported that the figures it provided include all the inspections started and completed in 2016, and those started in 2016 but not yet completed in 2016. The inspections launched in previous years and only completed in 2016 were not included in the figures. All the inspections concerned recognitions.

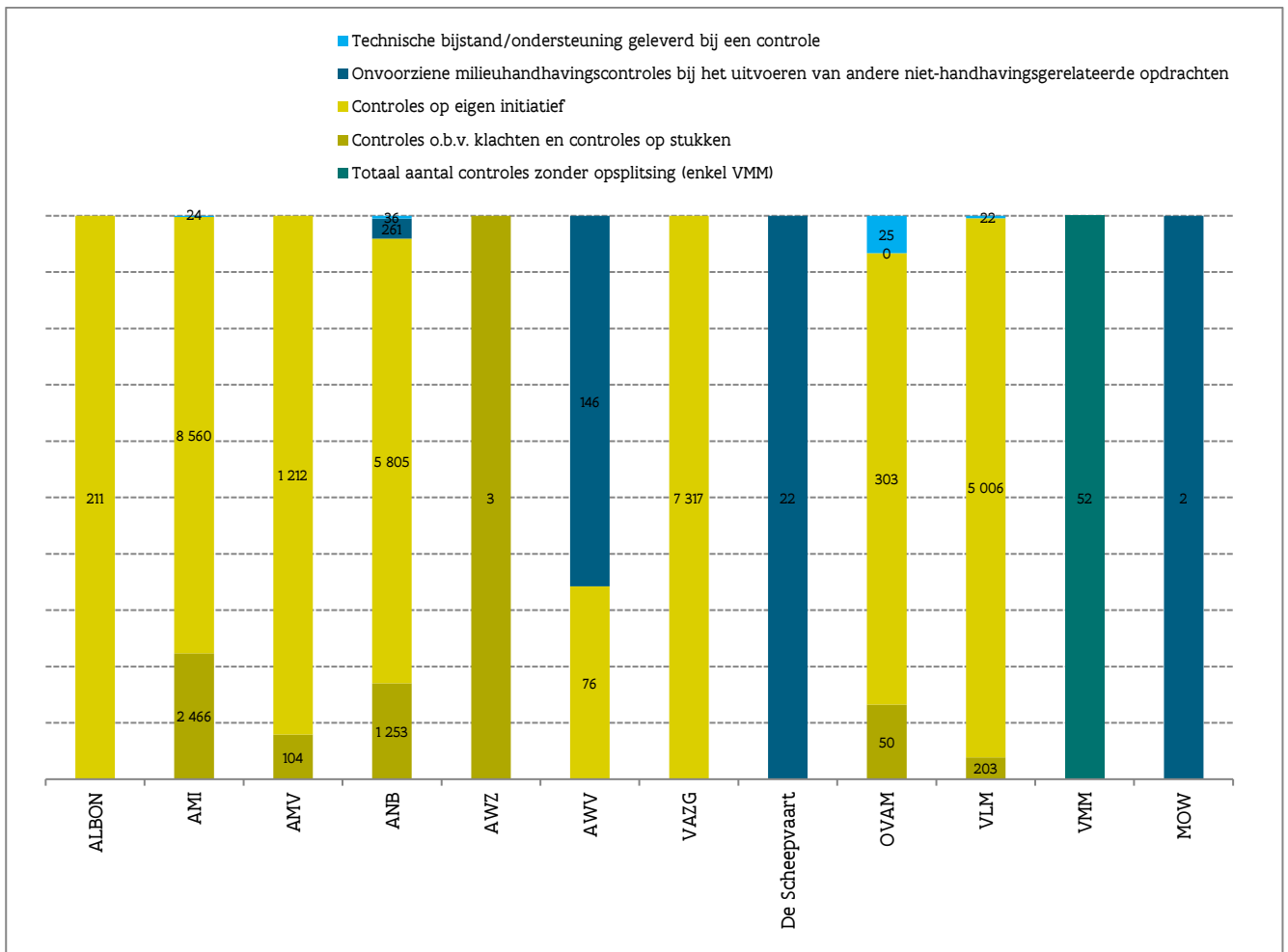
Table 3 shows that the regional supervisors carried out a total of 33,159 inspections. This is a decrease compared with the 37,625 inspections in 2015. This decrease can partly be explained by the number of inspections carried out by OVAM. They carried out 354 inspections in 2013 and 402 in 2014. In 2015 this number increased considerably, and OVAM carried out 3,323 inspections. In 2016, only 378 inspections were carried out. This difference between the figures before and after 2015 was caused by the 'Annual Overall Environmental Report' (IMJV) inspections carried out by OVAM. Every odd year, there is a large sample of companies (approx. 15,000 waste producers) that have to report their waste figures from the previous year via the IMJV. Every even year, the sample of companies is smaller (approx. 3,000 waste producers). In the years with a large sample, there were many companies (2,000 to 3,000) that did not respond to the invitation sent via the LNE (Environment, Nature and

Energy Department) IMJV desk. In the years with a small sample, as in 2016, this is more limited (approx. 50-100). It is the companies that do not respond to the invitation that receive a warning (within the framework of the Environmental Enforcement Decree) from OVAM to report via the IMJV. Every company that receives such a warning is counted as one inspection by OVAM. In 2014, 15 warnings were sent (small sample year) and three incident reports were ultimately drawn up. In 2015, 2,372 warnings were sent (large sample year) and 44 incident reports were ultimately drawn up. The follow-up of the IMJV and the sending of warnings has been automated as much as possible, so that the time spent does not increase significantly when more warnings have to be sent. As a result, there is not much difference in the number of FTEs used between the different years.

The number of inspections carried out by LNE-AMI and LNE-AMV also fell in 2016 compared with 2015 and 2014.

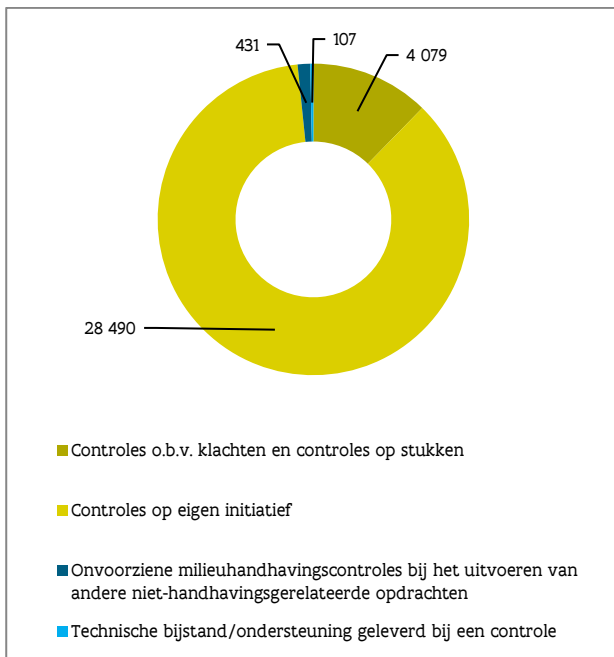
For the majority of the enforcement bodies, there was an increase in the number of environmental enforcement inspections carried out in 2016 compared with 2015.

New this year is that the regional supervisors were also questioned on the basis of the inspections they carried out.



Graph 1: Reason for inspections carried out in 2016 per supervisor

The graph above shows the reason for the inspections carried out by each of the enforcement bodies. The graph clearly shows that for those enforcement bodies for which environmental enforcement is a priority, inspections are mainly self-initiated. For enforcement bodies for which environmental enforcement is not one of their priority tasks, such as AWZ and NV de Scheepvaart, almost all the environmental enforcement inspections were carried out adventitiously during the performance of other non-enforcement-related tasks. VMM reported that it did not list any separate figures on the nature of the inspection for 2016.



Graph 2: total number of inspections broken down by reason (excluding VMM)

The graph above shows that 86% of the total number of 33,159 environmental enforcement inspections in 2016 were self-initiated. This indicates a high degree of programmatic enforcement. 12% of checks were carried out on the basis of complaints and documentary checks.

In line with the number of designated supervisors and the FTE deployed for enforcement duties, one can, however – again in 2016 - identify a large diversity between the number of inspections performed by the various regional supervisory agencies<sup>13</sup>.

Table 4 not only reflects the number of supervisors, the total number of FTEs dedicated to enforcement duties and the number of environmental enforcement inspections performed by the supervisors, but also makes a comparison by dividing the number of performed environmental enforcement inspections by the number of supervisors, in order to present the average number of inspections per supervisor. Because an inspection is often more than just carrying out the inspection and visiting the site concerned the number of inspections carried out

by supervisors will be divided by the total number of FTEs dedicated to enforcement duties per regional body, in order to present an average number of inspections per FTE and to achieve a more balanced picture. In this way account is also taken of the preparations of each inspection and the administrative processing. For comparison, table 4 shows the average number of inspections per supervisors and the average number of inspections per FTE in 2015 and 2016.

<sup>13</sup> This includes both the number of FTEs dedicated by supervisors 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.

EFFORTS ENVIRONMENTAL ENFORCEMENT DUTIES					
Regional enforcement actor	Number of supervisors	Total dedicated FTE	Number of environmental enforcement inspections	Average number of inspections per supervisor	Average number of inspections per FTE
LNE-ALBON	13	2.6	211	16	81
LNE-AMI	107	96.99	11,050	103	114
LNE-AMV	84	2.25	1,316	16	585
ANB	150	34.5	7,355	49	213
AWZ	68	0.01	3	0	300
AWV	58	1.2	222	4	185
VAZG	18	4.25	7,317	407	1,722
NV De Scheepvaart (Shipping Agency)	30	1.1	22	1	20
OVAM	159	10.15	378	2	37
VLM	39	33.3	5,231	134	157
VMM	28	0.6	52	2	87
MOW – Division Maritime Access	11	0	2	0	0
Total	765	186,95	33,159	43	177
				in 2014: 39	in 2014: 158
				in 2015: 51	in 2015: 207

Table 4: Efforts related to environmental enforcement duties 2016

The table above shows that, on average, 43 inspections per supervisor were carried out in 2016. This is a slight decrease compared with the 51 inspections per supervisor in 2015 and is comparable with the 39 inspections per supervisor in 2014. As indicated above, the decrease in the number of environmental enforcement inspections carried out was mainly attributable to OVAM, LNE-AMI and LNE-AMV.

However, when considering this fact for each separate regional supervisory body, the picture is very diversified. In 2016, for example, a VAZG supervisor carried out an average of no fewer than 407 inspections, whereas in the case of, for example, VMM and AWV (Agency for Roads and Traffic), this proportion was two and four inspections per supervisor respectively. This difference could be explained, among other things, by the nature of the inspections carried out and by the fact that, for some supervisors, the enforcement of environmental law forms an almost exclusive task, while for others the

enforcement forms only a small part of the employee's duties.

The average number of inspections per FTE is the total number of inspections performed weighted against the total FTE spent on enforcement duties. This figure gives a more correct picture of the efforts of the regional enforcement actors in 2016. On average, the supervisors performed 177 inspections per FTE. This is an increase compared with the 158 environmental enforcement inspections per FTE in 2014, but a decrease compared with the 207 environmental enforcement inspections per FTE in 2015. This decrease compared with 2015 can be explained by the decrease in the number of environmental enforcement inspections carried out. For certain bodies, the average number of inspections per FTE is a fictitious scenario as no more than 1 FTE was deployed on enforcement tasks within their organisation. This is the case with AWZ and VMM, and therefore the average number of inspections per FTE is higher than the

total number of environmental enforcement inspections carried out by these enforcement bodies in 2016.

The results of these environmental enforcement inspections carried out by the regional enforcement bodies will be discussed in Chapter 3 'Evaluation of the use of the individual environmental enforcement instruments and safety measures'.

## 2.2 EVALUATION OF THE ENVIRONMENTAL ENFORCEMENT POLICY PURSUED BY THE POLICE

To draw up the present environmental enforcement report the Flemish High Enforcement Council for Spatial Planning and Environment again 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 between 1 January 2016 and 31 December 2016. 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

Table 5 gives an overview of the types of official reports that were drawn up with regard to the environment by police forces in 2016.

The figures include both the initial official reports and the simplified official reports. 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/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.<sup>15</sup>

In total, the police forces drew up 12,968 official reports in the Flemish Region in 2016. Slightly more than 98% of these official reports were drawn up by the local police and 2% by the federal police.

More than half, i.e. 59%, of the official reports related to 'other phenomena linked to the environment'. This type of breach includes, among other things, breaches that do not fall within the scope of the Environmental Enforcement Act, such as breaches in the framework of fireworks fraud. The second largest category is 'waste by private person'. This category represents 23% in the total number of identified breaches.

Compared with the data in the Environmental Enforcement Reports of 2014 and 2015, there is a downward trend in the number of official reports drawn up, namely 15,303 in 2014, 13,373 in 2015 and 12,968 in 2016. However, the proportion between the reporting unit (federal police, local police and other police services) remains virtually the same, as does the proportion between the various types of facts.

---

<sup>14</sup> Simplified official reports are mainly drawn up for non-serious breaches, for instance with unknown offenders, which are not systematically referred to the public prosecutor's office.

<sup>15</sup> Art. 44/7 Law on the Police Service

OFFICIAL REPORTS				
Type of breach	Unites			Total
	Federal police	Local police	Other	
Waste by professional person	22	312	0	334
Waste shipment	5	47	1	53
Waste: licence-recognition	2	50	2	54
Waste by private person	60	2,849	6	2,915
Air pollution	9	98	8	115
Water pollution	14	142	2	158
Soil pollution	3	78	1	82
Environment Noise pollution	0	210	2	212
Environmental taxes and duties	0	14	0	14
Environment flora fauna Destruction	0	231	0	231
Environment flora fauna Animal Welfare	3	906	3	912
Environment flora fauna Nature protection	5	149	0	154
Environment flora fauna Licence recognition	4	64	0	68
Other phenomena linked to environment	155	7,497	14	7,666
Total	282	12,647	39	12,968
Source: ANG				

Table 5: Official reports drawn up by police forces for environmental offences in the Flemish Region in 2016

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

The Flemish High Enforcement Council for Spatial Planning and Environment also surveyed the federal police about its activities in the field of environmental enforcement for the Environmental Enforcement Report 2016. It was asked, among other things, how many official reports were entered in the General National Database on Environmental Offences in 2014 where the identifying unit belonged to the federal police. These data were presented in table 5. It was also asked how many people within the federal police force had been actively involved in environmental law enforcement in the Flemish Region in 2016.

Within the federal police force 117 people were part of the Environmental Network in Flanders in 2016. The idea behind this Environmental Network is to exchange

information about environmental breaches, offer mutual support, develop best practices together, and conduct large-scale investigations in an effective and efficient way. This network also includes 201 members of local police forces. However, the figure of 117 federal police staff who are actively involved in environmental enforcement is both an overestimation and an underestimation, since this figure is an extraction from the Environmental Network database. Not all people included in this database are still actively involved in environmental enforcement. Conversely, it is also true that not all staff within the federal police who are involved in environmental enforcement are included in this network. The figure of 117 people should therefore be regarded as indicative only.

It is more accurate to say that in 2016 38FTEs within the federal police force were actively involved in environmental enforcement in the Flemish Region. This



concerned 6 FTEs within the Environment Division of the Directorate of Crime against Goods, 15 FTEs of research capacity within the Federal Judicial Police and 10 FTEs of phenomenon coordinators. These phenomenon coordinators examine and monitor the phenomenon 'environmental crime'. Compared with 2015, a stagnation can be observed in the number of FTEs that were actively involved in environmental enforcement in the Flemish Region within the federal police. In 2014, there were 49 FTEs. It is mainly research capacity that has decreased significantly since then, from 31 FTEs in 2014 to 15 FTEs in 2015 and 2016. On the other hand, the number of FTE phenomenon coordinators has increased, from 10 FTEs in 2014 to 17 FTEs in 2015 and 2016.

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.

In 2016, a total of 287 initial official reports were entered in the General National Database<sup>16</sup> on Environmental Offences, and this only on the territory of the Flemish Region and where the identifying unit belonged to the federal police force. This means a sharp decrease in the number of official reports drawn up compared with 2015. In 2015, 439 official reports were drawn up. In 2014, this figure was 354. These are usually the more complex environmental dossiers. The findings are the result of a complaint or report or a crime discovered in flagrante. However, a number of cases are launched on the basis of information collected (administrative, police or judicial). These official reports dealt not only with environmental offences, but also with environment-related facts.

---

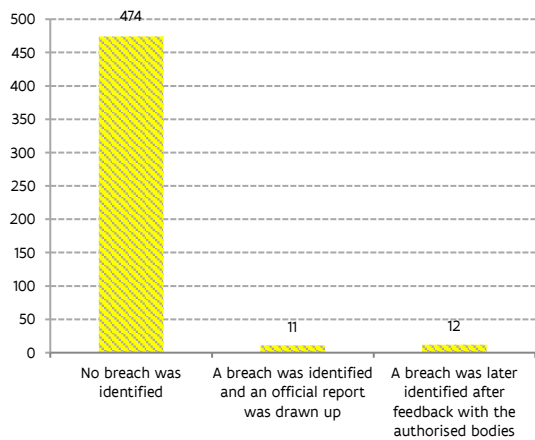
<sup>16</sup> Extraction June 2017 - the relevant figures are likely to be higher as the ANG and the ECO forms database are fed on a daily basis.

### *Proactive inspections in the framework of waste shipments on the territory of the Flemish Region*

In addition to these reactive inspections, the federal police also carried out 497 proactive inspections in the framework of waste shipments on the territory of the Flemish Region in 2016. The reduced research capacity in FTEs is therefore ultimately also reflected in the proactive inspections carried out. In 2015, the number of proactive inspections increased from 531 in 2014 to 595 in 2015, whereas there is now a sharp decrease to 497. 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 huge (illegal) profits. This focus on inspections of waste shipments by the federal police is related to the National Safety Plan 2016-2019<sup>17</sup> in which the federal government has decided to prioritise waste fraud, among other things. It should be noted that these figures for waste shipments only include those shipments of waste for which an ECO form has been prepared and sent to the central service DJSOC/Environment. In other words, the inspections of waste shipments for which no ECO form has been prepared or submitted are not reflected in these figures; the figures will therefore be an underestimation.

The graph below gives an overview of the results of the 497 inspections carried out by the federal police in 2016 related to waste shipments. In any case, the fact that the personnel capacity of the police's off-shore units was severely hampered by the additional efforts to combat terrorism in the course of 2016 has seriously reduced the number of waste transport inspections carried out.

<sup>17</sup> <http://www.politie.be/files/fed/files/ORG/INT/NVP2016-2019.pdf>

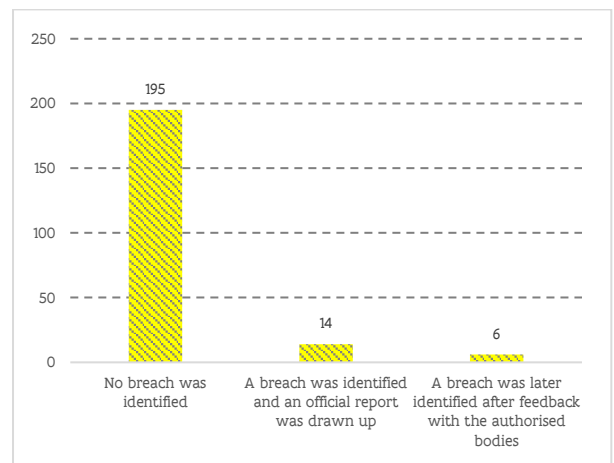


Graph 3: Proactive inspections (reported by drawing up an ECO form) carried out by the federal police in the context of waste shipments on the territory of the Flemish Region in 2016

No breach was identified during 474 inspections. An infringement was detected during 11 inspections and an official report was drawn up immediately when the ECO form was filled in<sup>18</sup>. It is possible that afterwards, after the data were checked by the administration and breaches were identified after all, more official reports were drawn up. Currently this has resulted in 12 extra breaches being identified. This was entered in graph 1 as 'A breach was later identified after feedback with the authorised bodies'. After the ECO form for waste has been completed, it is submitted to the Environment Service of the Federal Judicial Police for further analysis.

We should also mention that the local police also carried out waste shipment inspections in 2016. In 2016, 215 waste transport checks were carried out by the local police. This is a further decline compared with the 451 inspections carried out in 2014 and the 238 in 2015. In the case of 195 inspections carried out in 2016, no infringements were detected. Fourteen official reports were drawn up at the time of filling in the ECO form. Six additional violations were identified after verification by the administrations. The above data may also be underestimates, given that the figures for waste

shipments only include those shipments of waste for which an ECO form has been drawn up and sent to the central agency DJSOC/Environment. As previously reported, the checks carried out on shipments of waste for which no ECO form has been prepared or submitted cannot be found in these figures.



Graph 4: Proactive inspections (reported by drawing up an ECO form) carried out by the local police in the context of waste shipments on the territory of the Flemish Region in 2016

<sup>18</sup> For each inspection of a waste shipment (including manure), the police officer draws up a document, called ECO form for waste (EFW). With this document part of the waste stream can be made visible..

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

The 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 2016 with regard to a specific environmental theme. However, the activities of the local police supervisors are treated in this 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 in charge of basic police 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. In this context they naturally enforce environmental law, but not as supervisors under 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. It should also be mentioned that in 2016 201 people from the local police are part of the Environmental Network as described earlier with regard to the federal police.

For the present Environmental Enforcement Report, however, the superintendents of the Flemish police districts were asked to only report when 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. Local police supervisors are, just like local supervisors, appointed within the municipality itself or within an intermunicipal association with the assignment to perform supervision in the facilities appearing on the VLAREM I categorisation for the following legislation:

- ▶ title III of DABM
- ▶ the Air Pollution Act;
- ▶ the Surface Waters Act, as regards the discharge of waste water and the detection of all forms of water pollution;
- ▶ the Noise Abatement Act;
- ▶ articles 11, 12, 13, 23, 25, para 1, article 39 and 40 of the Materials Decree;
- ▶ the Groundwater Decree;
- ▶ the Environmental Permits Decree;
- ▶ the Manure Decree and its implementing decrees;
- ▶ the decrees implementing the laws and decrees referred to in points 1° to 7°;
- ▶ chapter 6.3 of part 6 of title II of the VLAREM regulation;
- ▶ Regulation (EC) No 1005/2009 of the European Parliament and of the Council of 16 September 2009 on substances that deplete the ozone layer;
- ▶ Regulation (EC) No 1069/2009 of the European Parliament and of the Council of 21 October 2009 laying down health rules as regards animal by-products and derived products not intended for human consumption and repealing Regulation (EC) No 1774/2002;
- ▶ 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;
- ▶ regulation (EC) No 1013/2006 of the European Parliament and of the Council of 14 June 2006 on shipments of waste;

- ▶ the Pesticides Decree and its implementing decrees;
- ▶ Regulation (EU) No 517/2014 of the European Parliament and of the Council of 16 April 2014 on fluorinated greenhouse gases and repealing Regulation (EC) No 842/2006.

The local supervisor can also identify breaches in relation to establishments classified into Category 1 in accordance with Appendix 1 to Title 1 of VLAREM – within the framework of the aforementioned 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.

In the survey of police districts, similar to that conducted among municipal supervisors (see 2.3.5), questions were asked about the number of inhabitants in the police district, whether the police district has an appointed supervisor at its disposal, the number of, the amount of time dedicated by and the reporting of supervisors and the organisation of the supervisory activities within the local police force, and the number of inspections and identifications carried out, as well as the results linked to 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 response rate, the number of supervisors appointed within local police districts and the registration with the Environmental Licences Division of the Department of Environment, Nature and Energy, 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. Where relevant, comparisons will be made with previous years on the basis of the previous Environmental Enforcement Reports.

*Response from the local police concerning the request*

By analogy with the previous Environmental Enforcement Reports, it was decided in favour of a breakdown by police district population. As a result, 5 police district categories will be used.

CATEGORIES		
Police districts with a population of	Number of police districts in the category in question	Number of responding police districts per category in 2016
≤ 24,999	7	3
25,000 - 49,999	63	45
50,000 - 74,999	23	13
75,000 - 99,999	10	5
≥ 100,000	8	6
Total	111	72
2015	114	70
2014	116	97

Table 6: Categories of Flemish police districts, including number of police districts per category and number of respondents per category

The VHRM received a completed questionnaire from 72 of the 111 police districts<sup>19</sup> in the Flemish Region. This represents a response rate of 65%. This is similar to the response rate of 2015 and is therefore still significantly lower than the response rates of the Environmental Enforcement Report 2013 and the Environmental Enforcement Report 2014, which were 81% and 83% respectively. This lower rate may be explained by the fact that, for the 2015 and 2016 environmental enforcement reports, the VHRM conducted a digital survey of the enforcement bodies.

<sup>19</sup> The number of police districts decreased in 2016 in view of the merger of a number of police districts.

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

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, stipulates that municipalities are required to have at least 1 supervisor at their disposal. This can be either a municipal supervisor or a Vlarem officer, or a supervisor or a Vlarem officer of an intermunicipal association, or a supervisor or a Vlarem officer of a police district.

A municipality 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 at least required to have two supervisors at their disposal. These can be either municipal supervisors, police district supervisors or supervisors of intermunicipal associations.

Since the possibility exists to appoint supervisors within the police districts, all the police districts in the Flemish Region were asked whether or not a supervisor was appointed within their police district, how many supervisors were appointed and how much time these supervisors dedicated to environmental enforcement duties within the framework of the Environmental Enforcement Act in 2016. Table 7 gives a general overview.

SUPERVISORS AND ENVIRONMENTAL ENFORCEMENT DUTIES

	≤ 24,999	25,000 - 49,999	50,000 - 74,999	75,000 - 99,999	≥ 100,000	Totaal 2016	Totaal 2015	Totaal 2014
Response	3	45	13	5	6	72	70	97
Police district with appointed supervisor	0	13	4	3	1	21	32	32
Police district without appointed supervisor	3	32	9	2	5	51	38	65
Number of appointed supervisors	0	19	10	5	2	36	60	59
Average number of supervisors per police district	0	1.46	2.5	1.67	2	1.71	2	2
Total amount of time dedicated to environmental enforcement duties by supervisor (FTE)	0.00	4.50	10.31	4.70	6.00	25.51	26.36	27.69
Of which FTEs dedicated to environmental enforcement duties by the supervisors within the framework of the Environmental Enforcement Act	0.00	4.10	5.90	3.70	5.00	18.70	21.9	22.74
Of which FTEs dedicated to the administrative support of environmental enforcement duties by non-supervisors	0.00	0.40	4.41	1.00	1.00	6.81	4.46	4.95
<i>Average amount of time dedicated to environmental enforcement duties per supervisor (FTE)</i>	<i>0.00</i>	<i>0.24</i>	<i>1.03</i>	<i>0.94</i>	<i>3.00</i>	<i>0.71</i>	<i>0.44</i>	<i>0.47</i>
Police district that has no insight into the amount of time dedicated per supervisor	0	0	0	0	0	0	39	5

Table 7: Overview of the appointment of local police supervisors and efforts related to environmental enforcement duties in 2016 (per population)

From the table above it can be deduced that 21 of the 72 responding police districts used the services of a supervisor appointed within their own police district in 2016. This corresponds to 29% of the total number of responding police districts. This is a clear decrease compared with 2015, when almost 46% of the responding police districts had a supervisor at their disposal, and falls short of the level of 2014, when 33% had a supervisor at their disposal.

The total number of designated supervisors of the local police – spread over those police areas that effectively have appointed at least one supervisor – was, in 2016, 36, which means 1.71 supervisors per police area. For 2014, this average was 1.84 supervisors per police area and for 2015, 1.88 supervisors per police area can be calculated. In 2016, the 36 appointed supervisors represent a sharp drop in the number of supervisors, compared with the 60 appointed in 2015 and the 59 appointed in 2014.

Despite the fact that the number of supervisors appointed by the local police fell sharply in 2016, only a slight decrease in the number of FTEs deployed for environmental enforcement tasks within the police districts can be observed compared with 2015. In 2015, just over 26 FTEs were deployed on environmental enforcement tasks within police districts, in 2016 25.5 FTEs. Despite the lower number of supervisors appointed within local police districts, this results in an increase in the average amount of time spent per supervisor on environmental enforcement duties in 2016 compared with 2015. In 2015, this amounted to 0.44 FTEs. In 2016, this rose to 0.71 FTEs. In general, we can conclude that the average supervisor in the local police spends three quarters of his working time on environmental enforcement tasks.

In 2014, 2015 and 2016, approximately 80% of these FTEs were always deployed by supervisors on environmental enforcement tasks under the Environmental Enforcement Decree, while fewer than 20% were deployed on administrative support by non-supervisors.

The average amount of time<sup>20</sup> dedicated by each local police supervisor to environmental enforcement duties - which also includes the FTEs dedicated to administrative support - amounted to 0.47 FTEs in 2014, to 0.44 FTEs in 2015 and to 0.71 FTEs in 2016. Since there was an average of 1.71 supervisors per police district with an appointed supervisor in 2016, an average amount of time<sup>21</sup> of 1,21 FTEs was dedicated to enforcement duties in police districts that appointed a supervisor within their own force. This ratio amounted to 0.86 FTEs in 2014 and to 0.83 FTEs in 2015.

---

<sup>20</sup> 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.

<sup>21</sup> 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.

*Environmental enforcement inspections carried out by local police supervisors*

In order to gain an insight into the activities of local police supervisors, table 8 shows the total number of environmental enforcement inspections that were carried out per category of police districts, as well as the average number of environmental enforcement inspections per supervisor and per FTE. The survey

explicitly asked about the number of environmental enforcement inspections that were carried out within the framework of the Environmental Enforcement Act by this/these police district supervisor(s) between 1 January 2016 and 31 December 2016. Table 8 gives an overview of this. Comparisons with 2015 and 2014 are also provided on the basis of the figures from previous environmental enforcement reports.

ENVIRONMENTAL ENFORCEMENT INSPECTIONS						
	≤ 24,999	25,000 - 49,999	50,000 - 74,999	75,000 - 99,999	≥ 100,000	Total 2016
Response	3	45	13	5	6	72
Number of appointed supervisors	0	19	10	5	2	36
Number of carried out environmental enforcement inspections	0	468	188	1,739	1,155	3550
Average number of environmental enforcement inspections per supervisor	0	25	19	348	578	99
2015	5	22	61	303	322	94
2014	4	104	44	9	178	83
<i>Average amount of time dedicated to supervisory duties per supervisors (FTE)</i>	0.00	0.24	1.03	0.94	3.00	0,71
2015	0.02	0.57	0.31	0.53	1.00	0.44
2014	0.72	5.79	2.29	2.25	14.83	1.41
<i>Average number of environmental enforcement inspections per FTE</i>	0	104	18	370	193	139
2015	250	38	198	570	322	215
2014	104	311	89	17	214	177

Table 8: Overview of efforts related to environmental enforcement duties by local police supervisors (according to population) in 2016

In 2016, 3,550 environmental enforcement inspections were performed by the 36 appointed supervisors with the local police. In 2015, 5,661 environmental enforcement inspections were performed by 60 supervisors of the local police and in 2014 4,900 by 59 supervisors. This means that, despite a similar level of response to last year, the number of supervisors and, consequently, the total number of inspections carried out by these supervisors fell considerably.

The average number of environmental enforcement inspections per supervisor was 83 in 2014 and 94 in 2015. In 2016, this rose to an average of 99 environmental enforcement inspections per supervisor. The number of

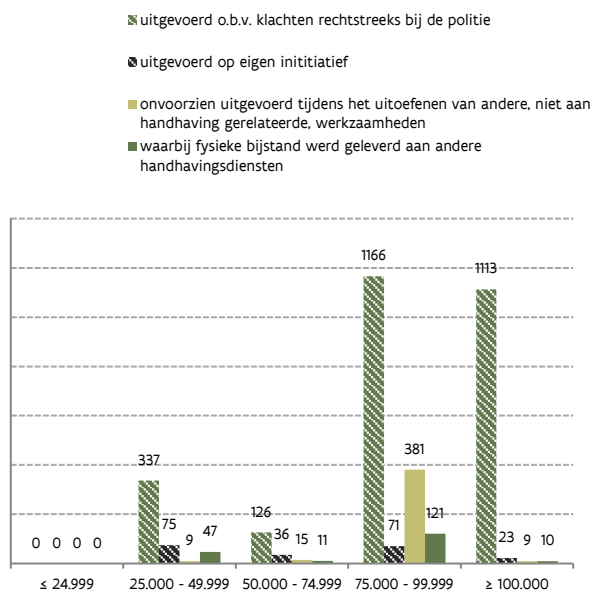
inspections carried out by the appointed supervisors of the responding police districts therefore increased on average, but in absolute terms the number of inspections fell by 37% compared with 2015.

As in previous reports, it can again be seen that in 2016 there is a considerable difference between the various classes of police areas. In the smaller class of police areas, the average number of inspections per supervisor is 0, while in the larger classes of police areas a supervisor performed on average 578 environmental enforcement inspections in 2016.



Over the various classes of police areas, the average number of inspections per FTE in 2016 was 139. This represents a decrease compared with the 215 inspections per FTE in 2015 and the 177 environmental enforcement inspections per FTE in 2014.

Graph 5 gives an overview, by category, of the number of environmental enforcement inspections carried out in response to complaints and reports, the number of self-initiated inspections, e.g. as part of a planned environmental enforcement campaign, and - new this year<sup>22</sup> - the number of inspections carried out adventitiously in the course of other non-enforcement-related activities and the number of inspections in which physical assistance was provided to other enforcement services in 2016.



Graph 5: Number and type of environmental enforcement inspections carried out by local police supervisors within the framework of the Environmental Enforcement Act in 2016

On the basis of the above graph, it can be concluded that the majority of environmental enforcement inspections were carried out on the basis of complaints made directly to the police, i.e. 77%. 11% of the inspections were carried out adventitiously in the course of other non-enforcement-related activities and 6% of the total number of inspections were self-initiated. Within the different categories of police districts, the proportions are as follows. In the smallest category of police districts, no environmental enforcement inspections were carried out by the respondents. In the category of police districts with a population between 25,000 and 49,999, 16% of the inspections were carried out on the police's own initiative. In the third category of police districts as well as in the fourth category, only 4% and 2% of inspections respectively were self-initiated. As mentioned above, the majority of the inspections in the responding police districts were therefore carried out directly with the police on the basis of complaints. In the third and fourth categories of police districts mentioned above, 67% and 96% of inspections were carried out reactively. In the third category of police districts, 22% of inspections were carried out adventitiously.

<sup>22</sup> At least as far as reporting is concerned.

## 2.3 EVALUATION OF THE PURSUED LOCAL ENVIRONMENTAL ENFORCEMENT POLICY

### 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 between 1 January 2016 and 31 December 2016 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.

For this environmental enforcement report, the VHRM has received a response from all the provincial governors. These provincial governors all stated that they had received no requests/petitions about imposing administrative measures in 2016. Also, no administrative measures were imposed in 2016 by the provincial governors.

The previous environmental enforcement reports also showed that these possibilities, both submitting requests/petitions about imposing administrative measures and actually imposing administrative measures by the provincial governors, are hardly used. Since the introduction of the Environment Enforcement Act, those provincial governors replying received only 14 requests/questions with a view to imposing administrative measures. In addition it can be stated that only in 2011 did the provincial governor of Limburg impose 1 administrative measure in the form of an administrative coercion, whereby action was actually taken against an established environmental offence or an environmental breach.

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. 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.

In 2016, one safety measure was imposed by the provincial governor of the Province of Antwerp, at the request of a regional supervisor.

### 2.3.2 Provincial supervisors (supervision pursuant to the Environmental Enforcement Decree)

Article 16.3.1, §2, 2° of the Environmental Enforcement Act 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.

The provincial supervisors are authorised to perform supervision on the following regulations:

- ▶ article 2 of the Surface Water Act, as regards category 2 and 3 non-navigable watercourses and their appurtenances, as provided for in the Act of 28 December 1967 on non-navigable watercourses;
- ▶ article 12 para. 1 of the Materials Decree, as regards the category 2 and 3 non-navigable watercourses and their appurtenances, as provided for in the Act of 28 December 1967 on non-navigable watercourses;
- ▶ the decrees implementing the law and decree referred to in points 1 and 2 with regard to the category 2 and 3 non-navigable watercourses and their appurtenances, as provided for in the Act of 28 December 1967 on non-navigable watercourses;
- ▶ section II of chapter III of title I of the Integrated Water Policy Decree and articles 62 and 70 of the Integrated Water Policy Decree, with regard to the category 2 and 3 non-navigable watercourses and their appurtenances, as provided for in the Act of 28 December 1967 on non-navigable watercourses.

The provincial noise supervisors are authorised to perform supervision on the following regulations:

- ▶ the Noise Abatement Act and its implementing decrees;

- ▶ the Environmental Permits Decree and its implementing decrees, with regard to noise aspects for establishments classified as class 2 and 3 in accordance with Annex 1 to title I of the VLAREM regulation.

In the case of establishments classified as class 1 establishments in accordance with Annex 1 to title I of the VLAREM regulation, they may, within the framework of these laws, decrees and their implementing decrees, make findings on the basis of sensory perception with regard to noise aspects and investigate cases as referred to in article 16.3.14 of the Environmental Enforcement Decree.

In the context of the inquiry for this environmental enforcement report, the VHRM received a reply from the five provinces concerning the provincial supervisors and their activities in 2016.

The provinces of Limburg, Flemish-Brabant and West-Flanders stated that no supervisors had been appointed under the Environment Enforcement Act. Only the province of Antwerp and the province of East Flanders had access to provincial supervisors in 2016, more specifically to 14 and one provincial supervisors respectively, all of which were registered with LNE-AMV. A total of 0.6 FTEs were deployed for environmental enforcement duties in the context of the Environmental Enforcement Decree by supervisors in the province of Antwerp. In addition, 0.5 FTEs were deployed in this province for the administrative support of environmental enforcement tasks by non-supervisory bodies. The supervisor of the province of East Flanders deployed 0.05 FTEs on environmental enforcement tasks in 2016.

In 2016, 14 environmental enforcement inspections were carried out in the province of Antwerp as a result of a complaint or report, and 16 inspections were carried out

adventitiously on the spot in the course of other non-enforcement-related activities. There were no self-initiated audits. An infringement was found during 20 inspections and a warning was issued for 12 inspections. Two priority official reports<sup>23</sup> were also drawn up.

The provincial supervisor of the province of East Flanders carried out three inspections in 2016 as a result of a complaint or report, and 26 inspections were carried out adventitiously on the spot in the course of other non-enforcement-related activities. There were no self-initiated audits. An infringement was found during nine inspections and a warning was issued during nine inspections.

### 2.3.3 Competences of provinces regarding unnavigable watercourses (other than those included in the Environmental Enforcement Act) by appointed provincial staff (supervision not covered by the Environmental Enforcement Decree)<sup>24</sup>

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.

Until recently, the management of the non-navigable watercourses in Flanders was highly fragmented. In 2014,

<sup>23</sup> A priority official report is deemed to mean those official reports intended for determining offences stated in the protocol 'Priority memorandum prosecution policy environmental law in the Flemish Region 2013'

<http://www.vhrm.be/documenten/milieuhandhavingsprotocollen/10ndertekening-nota.pdf>

<sup>24</sup> Although these competences are not included in the Environmental Enforcement Decree, it was decided within the VHRM that it would be useful to discuss these competences briefly in the Environmental Enforcement Report.

the Government of Flanders amended the law on non-navigable watercourses in such a way that watercourse managers can change the category of a watercourse, in mutual consultation, in order to manage them efficiently.

With a view to the more efficient management of the non-navigable watercourses – objective breakthrough 63 of the internal reform of the federated state – intensive consultations took place between provinces, municipalities, the polder and drainage authority and the Flemish Region. As a result, most municipalities transferred the management of their category 3 watercourses to the provinces in 2014.

This transfer also means that the number of provincial staff appointed to monitor the management of watercourses and surrounding areas has been increased.

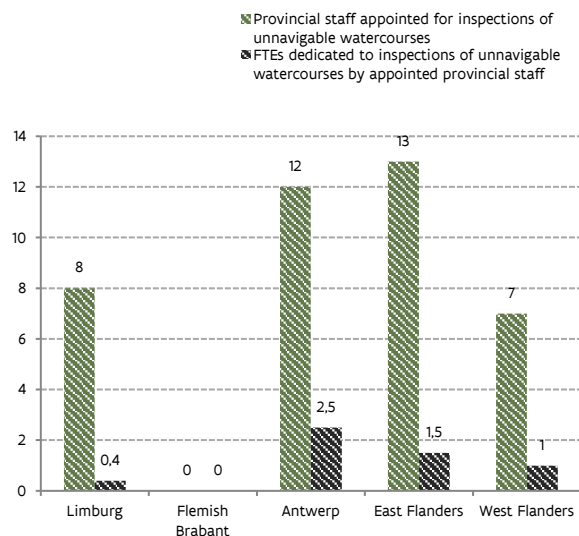
Provincial authorities use their own websites as an information channel to inform citizens and raise public awareness of the regulations, rights and obligations relating to non-navigable watercourses. On the other hand, they also have a hotline for reporting issues.

The following are a selection of important focus points relating to supervision under both the law on non-navigable watercourses and the Environmental Enforcement Decree:

- ▶ do not leave grass clippings or trimmings on the banks;
- ▶ do not reinforce the banks yourself;
- ▶ do not cover the watercourse without planning;
- ▶ do not raise levels along the watercourse without planning;
- ▶ respect the distance regulations when building along the watercourse;
- ▶ no illegal dumping;
- ▶ do not use pesticides within 5 meters of the watercourse.

Provincial water-awareness employees raise the awareness of the public about these focus points during field visits.

The graph below shows the number of provincial water-awareness employees and the number of FTEs they deployed on inspections of non-navigable watercourses.



Graph 6: Number of provincial water-awareness employees and number of FTEs they deployed on controls on non-navigable watercourses

### 2.3.4 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. The mayors are competent to impose safety measures and administrative measures when:

1. there has been an infringement of article 2 or chapter IIter of the Surface Waters Act;
2. there has been an infringement of article 12, para. 1 of the Materials Decree;
3. an establishment subject to a permit is operated without a permit;
4. a class 2 establishment is operated in contravention of the permit conditions;
5. a class 3 establishment is operated in breach of environmental regulations;
6. there is a violation of article 62 of the Soil Decree.

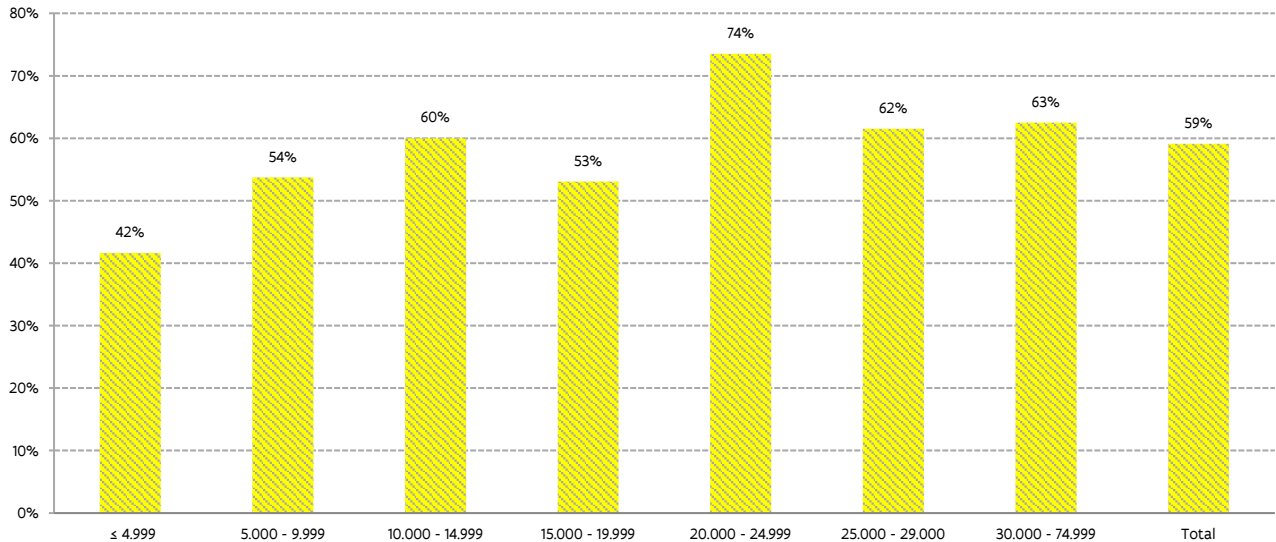
The second municipal player – the municipal supervisor – was given the same supervisory duties as the local police supervisors and the inter-municipal associations (see 2.2.3).

Please note that the figures below, as well as the data in 2.2.3, are presented schematically for the organisation of municipal supervision, via municipal supervisors, local police supervisors and supervisors appointed by inter-municipal associations. In practice, different ways of organising enforcement are possible. For example, the municipality may have concluded a protocol with the police district whereby the municipal environmental service deals with complaints, formulates recommendations and warnings, and the local police (or their supervisor) draws up the official reports, with or without initial preparation by the environmental officer. Various other partnerships between the municipality and, for example, the inter-municipal association are also possible. When reading and interpreting the data below, it is therefore important to bear in mind that a report such as this one – in view of the large amount of information - can only provide general overviews, and that enforcement practice is more complex and various forms of organisation are possible

### 2.3.5 Mayors

The survey of the mayors of the cities and municipalities in the Flemish Region ran parallel with the survey of the municipal supervisor(s) for the present Environmental Enforcement Report. The mayors were asked to report on their activities within the framework of the imposition of administrative measures and safety measures in 2016.

## Response



Graph 7: Response rate in percentages of the mayors of the Flemish cities and municipalities per category of municipalities

The Flemish High Enforcement Council for Spatial Planning and the Environment received a response from 182 mayors in the Flemish Region (out of a total of 308). This represents a response rate of 59%. Since the first environmental enforcement report (MHR2009) was published, the VHRM has seen a steady increase in the response rate, which, however, has fallen sharply in 2016. While this response rate was 60% for MHR2009, it gradually increased to 79% in 2015 before falling back below the 2009 level in 2016. The size of the response rate is related to the representativeness of the data in the environmental enforcement reports and the accuracy of the picture that can be given of the different facets of the local environmental enforcement landscape.

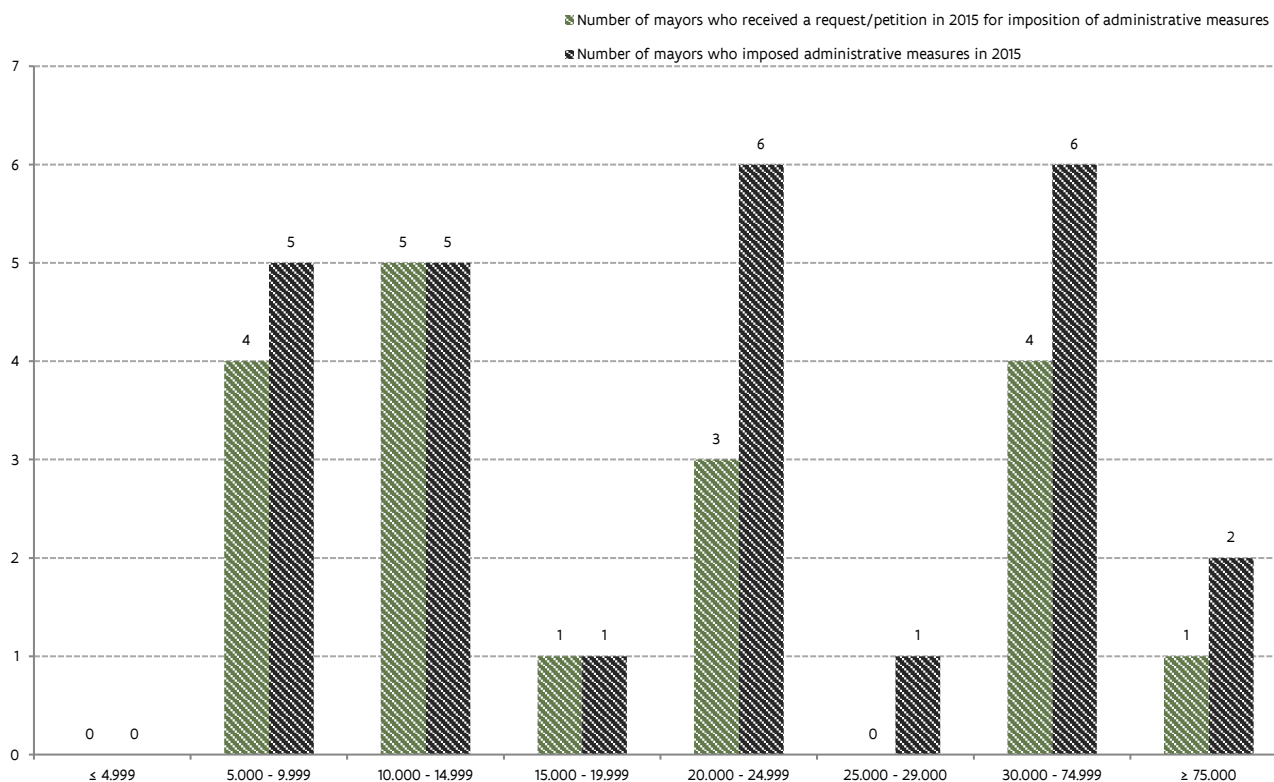
### *Administrative measures*

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.

Administrative measures may also be taken following a request to impose such measures by persons directly affected by an environmental infringement or offence, by persons with an interest in curbing that environmental infringement or offence, and by legal persons referred to in the law concerning the right of action for the protection of the environment.

Graph 8 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 2016.



Graph 8: Number of responding mayors who received a request/petition to impose administrative measures and the number of responding mayors who imposed administrative measures in 2016

Graph 8 shows that 18 of a total of 182 mayors that replied have received a question/request for the imposition of administrative measures in 2016. This means 10% of the mayors who replied. In addition, on the basis of the graph 8, it can be concluded that 26 mayors imposed administrative measures in 2016. This represents 14.3% of the mayors who replied. This is a slight decline compared with 2015. At that time, 16.8% of the responding mayors received a request/question to impose administrative measures and 17.2% of the responding mayors imposed administrative measures.

received from the various enforcement actors and the number of requests for imposing administrative measures that were submitted to the mayors by third parties.

Table 9 gives an overview of the number of questions for imposing administrative measures that the mayors



ADMINISTRATIVE MEASURES							
CITIES AND MUNICIPALITIES WITH A POPULATION OF:	REQUESTS/PETITIONS RECEIVED BY THE MAYOR REGARDING THE IMPOSITION OF ADMINISTRATIVE MEASURES, BY:						
	Regional supervisors	Municipal supervisors	Intermunicipal association	Police district	Provincial supervisors	Third parties	Total
≤ 4,999	0	0	0	0	0	0	0
5,000 - 9,999	0	2	0	0	0	6	8
10,000 - 14,999	0	0	0	2	0	4	6
15,000 - 19,999	0	0	0	0	0	2	2
20,000 - 24,999	1	1	1	0	0	0	3
25,000 - 29,999	0	0	0	0	0	0	0
30,000 - 74,999	0	1	0	1	0	2	4
≥ 75,000	0	1	0	0	0	0	1
Total	1	5	1	3	0	14	24
<i>in 2015</i>	6	45	2	4	1	65	123

Table 9: Requests/petitions for the imposition of administrative measures received by the mayors of the Flemish cities and municipalities in 2016

In total, the mayors collectively received 24 requests/petitions in 2016 concerning the imposition of administrative measures. More than half of these 24 questions/requests, i.e. 58%, were requests from third parties. In addition, municipal supervisors asked 20.8% of the total number of questions/requests for the imposition of administrative measures.

Compared with previous years, these 24 questions/requests represent a sharp decline compared with the 123 requests in 2015. The downward trend in the number of questions/requests – 286 in 2013 and 193 in 2014 – will continue at an accelerated rate in 2016.

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 in 2014, 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 coercion: In this case the authorised supervisor takes actual action against the identified environmental infringement or environmental offence;
- ▶ or a combination of these measures.

Table 10 give an overview of the types of administrative measures that were imposed by the mayors in 2016 and the number of these imposed administrative measures that were not implemented within the imposed term.

ADMINISTRATIVE MEASURES						
	ADMINISTRATIVE MEASURES IMPOSED BY MAYORS					
CITIES AND MUNICIPALITIES WITH A POPULATION OF:	Prohibition order	Regularisation order	Administrative coercion	Combination (prohibition, regularisation, administrative coercion)	Total	It was not possible to have the measure carried out within the imposed term
≤ 4,999	0	0	0	0	0	0
5,000 - 9,999	1	7	1	2	11	2
10,000 - 14,999	3	4	0	1	8	1
15,000 - 19,999	0	1	0	0	1	0
20,000 - 24,999	3	10	1	0	14	3
25,000 - 29,999	0	0	3	0	3	0
30,000 - 74,999	1	9	1	1	12	4
≥ 75,000	2	3	0	1	6	0
Total	10	34	6	5	55	10
<i>in 2015</i>	<i>16</i>	<i>122</i>	<i>11</i>	<i>5</i>	<i>144</i>	<i>8</i>

Table 10: Number and type of administrative measures imposed by the mayors of the Flemish cities and municipalities in 2016

The table above shows that a total of 55 administrative measures were imposed by the mayors in 2016. This is a significant decline compared with the 144 administrative measures imposed by the mayors in 2016. This may be explained – at least partly – by the lower response rate. The average number of administrative measures per mayor was 2.1 in 2016, compared with 3.4 in 2015.

As in 2015, the majority of the administrative measures imposed in 2016 concerned regularisation orders. The 2016 ratio of 62% is comparable with that of 2014, which was almost 63%. In 2015, this ratio had risen to 78% of the total administrative measures imposed. In addition, 18% of the total number of administrative measures in 2016 were injunctions and almost 11% administrative coercive measures.

#### *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.

Table 11 gives an overview of the number of responding mayors who received a request for the imposition of safety measures and the number of mayors who actually imposed a safety measure in 2016, either on the basis of a request or at their own initiative.

<b>CITIES AND MUNICIPALITIES WITH A POPULATION OF:</b>	<b>Number of mayors who received a request for the imposition of safety measures in 2016</b>	<b>Number of mayors who imposed safety measures in 2016</b>
≤ 4,999	0	0
5,000 - 9,999	1	1
10,000 - 14,999	1	1
15,000 - 19,999	0	2
20,000 - 24,999	0	1
25,000 - 29,999	0	0
30,000 - 74,999	1	2
≥ 75,000	1	1
<b>Total</b>	<b>4</b>	<b>8</b>
<i>in 2015</i>	<i>10</i>	<i>14</i>

Table 11: Number of responding mayors who received a request to impose safety measures and the number of responding mayors who imposed safety measures in 2016

Table 11 shows that 4 of the 182 responding mayors received a request for the imposition of safety measures. This is 2% of the total number of responding mayors. In 2015, 4% of the responding mayors received a request to impose safety measures.

The number of mayors who actually imposed a safety measure following a request or by virtue of their office, is higher and amounts to 4% of the total number of

responding mayors. In 2015, 6% of the total number of responding mayors imposed a safety measure.

The mayors can impose safety measures by virtue of their office, but also following the request of a supervisor. Table 12 gives an overview of the number of requests that were submitted to the mayors in 2016 in the different categories of cities and municipalities and of which supervisors submitted these request.

<b>CITIES AND MUNICIPALITIES WITH A POPULATION OF:</b>	<b>REQUESTS/PETITIONS RECEIVED BY THE MAYOR REGARDING THE IMPOSITION OF SAFETY MEASURES, BY:</b>					
	<b>Regional supervisors</b>	<b>Municipal supervisors</b>	<b>Intermunicipal association</b>	<b>Police district</b>	<b>Provincial supervisors</b>	<b>Total</b>
≤ 4,999	0	0	0	0	0	0
5,000 - 9,999	0	1	0	0	0	1
10,000 - 14,999	0	1	1	0	0	2
15,000 - 19,999	0	0	0	0	0	0
20,000 - 24,999	0	0	0	0	0	0
25,000 - 29,999	0	0	0	0	0	0
30,000 - 74,999	0	3	0	0	0	3
≥ 75,000	0	1	0	0	0	1
<b>Total</b>	<b>0</b>	<b>6</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>7</b>
<i>in 2015</i>	<i>0</i>	<i>9</i>	<i>0</i>	<i>3</i>	<i>0</i>	<i>12</i>

Table 12: Number of requests for the imposition of Safety measures received by the mayors of the Flemish cities and municipalities in 2016

The 4 mayors who received a request for the imposition of safety measures in 2016 received a total of 7 of these requests from municipal supervisors or supervisors of an inter-municipal association. The majority, i.e. 86%, were appointed by the municipal supervisors.

These 7 requests to impose safety measures represent a further decline compared with the 12 requests in 2015, the 26 requests in 2014, the 38 requests in 2013 and the 33 requests that were made to the mayors in 2012.

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 in 2014, but also how many and which types of safety measures they actually imposed in that year.

Table 13 gives an overview of the safety measures actually imposed by the mayors and of the types of safety measures that were imposed. The VHRM also requested, by analogy with the request for administrative measures, whether it was possible to have the measure implemented within the imposed term.

CITIES AND MUNICIPALITIES WITH A POPULATION OF:	Types of safety measures imposed by mayors								Total	It was not possible to have the measure carried out within the imposed term
	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	combination of previous measures	other measures than previous			
≤ 4,999	0	0	0	0	0	0	0	0	0	0
5,000 - 9,999	0	0	0	1	0	0	0	1	0	0
10,000 - 14,999	1	1	1	1	1	1	1	7	0	0
15,000 - 19,999	1	0	0	0	0	0	2	3	0	0
20,000 - 24,999	0	0	0	1	1	1	0	3	0	0
25,000 - 29,999	0	0	0	0	0	0	0	0	0	0
30,000 - 74,999	2	1	1	0	0	0	2	6	0	0
≥ 75,000	0	0	0	0	0	1	1	2	0	0
Total	4	2	2	3	2	3	6	22	0	0
<i>in 2015</i>	7	3	3	4	8	5	2	32	4	4

Table 13: Number and type of safety measures imposed by the mayors of the Flemish cities and municipalities in 2016

Just as the number of requests to impose safety measures fell in 2016 compared to previous years, the actual number of safety measures imposed also decreased in 2016. Once again, the lower response rate for the 2016 figures should be noted. In 2015, 14 mayors imposed a total of 32 safety measures. In 2016, 8 mayors imposed a total of 22 safety measures. The average

number of safety measures imposed per mayor was 2.75 in 2016, compared with 2.29 in 2015. A positive decline can be observed in the number of security measures that were not implemented within the imposed deadline. In 2015, this ratio was 13%, and in 2016 each safety measure was implemented on time.

18% of the safety measures imposed in 2016 related to the stopping or the execution of operations, actions or activities, either immediately or within a certain period. In 13.6% of the cases, the safety measures involved taking, storing or removing matters vulnerable to this, including waste and animals Prohibition order or the evacuation of certain areas, grounds, buildings or roads was imposed 3 times in 2016 as a safety measure, which is equivalent to 13.6%.

### 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 digital 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. The present chapter tries to give a picture of: the response of the municipalities to the VHRM questionnaire; the number of Category 1, 2 and 3 nuisance-causing plants; the appointment of supervisors by the Flemish cities and municipalities; the number of appointed supervisors per municipality; the amount of time dedicated to supervisory duties by supervisors; the organisation of supervisory activities in cities and municipalities and the number of inspections carried out per category of municipality, per supervisor, and per FTE in 2016.

### Response

<b>MUNICIPALITIES</b>		
<b>NUMBER OF INHABITANTS</b>	<b>Number of municipalities and cities</b>	<b>Number of responding municipalities and cities</b>
≤ 4,999	13	5
5,000 - 9,999	70	36
10,000 - 14,999	83	51
15,000 - 19,999	51	26
20,000 - 24,999	31	25
25,000 - 29,999	15	8
30,000 - 74,999	37	25
≥ 75,000	8	6
Total	308	182

Table 14: Number of responding municipalities per category compared to the total number of municipalities per category in 2016

Table 12 shows that - by analogy with the response of the mayors - 182 municipalities completed the VHRM questionnaire. This is a response rate of 59% of the total number of municipalities in the Flemish Region. Here, too, the aforementioned break with previous years should be noted, as the response rate in 2016 is significantly lower. In 2015 it was 79%, in 2014 78%. As a result, the picture of all facets of the local environmental enforcement landscape is less representative than in previous years.

### *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 unlicensed nuisance-causing plants in their city/municipality in 2016. 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 'unlicensed 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, table 15 shows the total number of Category 1, 2 and 3 nuisance-causing plants for 2014, as well as the estimated number of unlicensed 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 unlicensed plants on their territory.

Number of inhabitants	Number of respondents per population category	Category 1 plants in 2016			Category 2 plants in 2016			Category 3 plants in 2016			Unlicensed plants		
		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 that do not know the number of unlicensed plants or indicated that there were no unlicensed plants
≤ 4,999	5	44	<b>9</b>	0	196	<b>39</b>	0	536	<b>134</b>	1	31	<b>6</b>	0
5,000 - 9,999	36	830	<b>28</b>	6	3,101	<b>107</b>	7	8,779	<b>314</b>	8	311	<b>16</b>	16
10,000 - 14,999	51	2,200	<b>54</b>	10	6,201	<b>151</b>	10	15,354	<b>427</b>	15	402	<b>15</b>	24
15,000 - 19,999	26	1,216	<b>55</b>	4	3,197	<b>145</b>	4	8,766	<b>487</b>	8	357	<b>24</b>	11
20,000 - 24,999	25	1,710	<b>71</b>	1	5,150	<b>215</b>	1	15,917	<b>663</b>	1	210	<b>19</b>	14
25,000 - 29,999	8	602	<b>75</b>	0	1,357	<b>170</b>	0	3,812	<b>545</b>	1	240	<b>60</b>	4
30,000 - 74,999	25	2,306	<b>115</b>	5	6,784	<b>339</b>	5	35,061	<b>1.845</b>	6	327	<b>33</b>	15
≥ 75,000	6	966	<b>242</b>	2	2,670	<b>668</b>	2	13,598	<b>3.400</b>	2	5,037	<b>1,259</b>	2
Total	182	9,874	<b>64</b>	28	28,656	<b>187</b>	29	101,823	<b>727</b>	42	6,915	<b>72</b>	86

Table 15: Number of nuisance-causing plants per category of municipalities in 2016

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 local supervisors”.

The above table shows that, in 2016, 154 of the total of 182 responding municipalities had a total of 19,874 Category 1 plants on their territory. On the other hand, 28 municipalities indicated not having any insight into the number of Category 1 plants on their territory. This means that, on the basis of the response, a municipality in the Flemish Region has an average of 64 class 1 establishments. However, if we look at the different classes of inhabitants separately, this average is much more differentiated. The municipalities in the smallest population group have on average only 9 class 1 establishments, while in the cities in the largest population group this increases to 242 class 1 establishments.

With regard to the Category 2 plants, it can be concluded that 153 of the 182 responding municipalities together had 28,656 Category 2 plants on their territory, which is an average of 187 Category 2 plants per municipality. However, the picture here also differs greatly from one class of inhabitants to another. The smallest municipalities had an average of 39 class 2 establishments and the largest had an average of no fewer than 668. As with class 1 establishments, the number of class 2 establishments increases globally as the number of inhabitants increases. Also with regard to class 2 establishments, 29 municipalities indicated that they did not know this number.

A similar trend can be observed with regard to Category 3 plants. The number of municipalities that have no insight into the number of Category 3 plants on their

territory is a bit higher than for Category 1 and Category 2 plants and amounts to 23% of the number of responding municipalities. In 2016, the other 140 municipalities together had 101,823 Category 3 plants on their territory, which is 727 per municipality.

A striking element is that no less than 96 of the responding municipalities indicated knowing about 6,915 unlicensed plants on their territory. 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 more than 72 nuisance-causing plants requiring a licence per municipality which are in fact not legitimately operated, since no licence was granted (yet) or no notification was done yet (Category 3 plants). The remaining 86 responding municipalities indicated that they did not know the number of unlicensed establishments or that they did not have unlicensed establishments on their territory. These data are in line with those for 2015. For 2015, 160 out of a total of 235 responding municipalities had reported 9,176 unlicensed establishments on their territory, which corresponds to an average of 57 nuisance-causing and unlicensed establishments per municipality that were not operated legitimately. It is therefore quite obvious to recommend once again that these municipalities also focus their enforcement efforts on these unlicensed, nuisance-causing establishments. After all, these municipalities are aware of environmental legislation breaches and could therefore be expected to take action in this respect.

#### *Number of local supervisors*

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. Based on the collected data, an analysis can be made of the degree to which the municipalities in the Flemish Region complied with these provisions of the Environment Enforcement Act concerning the appointment of supervisors in 2016.

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 2016.

Appointment of local supervisors on the basis of the number of nuisance-causing plants	Number of municipalities		
	Without supervisors	With 1 supervisor	With ≥ 2 supervisors
> 300 Category 2 nuisance-causing plants	1	7	22
< 300 Category 2 nuisance-causing plants	15	57	51
No insight into the number of nuisance-causing plants	2	12	15
Total	18	76	88

Table 16: Appointment of local supervisors on the basis of the number of nuisance-causing plants in 2016

<sup>25</sup> Taking into account the 12 municipalities that had one supervisor at their disposal and have no idea about the number of nuisance-causing establishments on their territory. There could potentially be more than 300 of such

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 table 16 that at least 25 and at most<sup>25</sup> 37 of the responding municipalities did not have sufficient supervisors at their disposal. This is minimum 14% and maximum 20% of the total number of responding municipalities. This is a decline compared with previous years. In 2015 these ratios were a minimum of 7% and a maximum of 8%, and in 2014 a minimum of 6.5% and a maximum of 10.5%.

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 table 17. As soon as a municipality has more than 30,000 inhabitants, it should have at least 2 supervisors at its disposal.

Appointment of local supervisors on the basis of the population	Number of municipalities		
	Without supervisors	With 1 supervisor	With ≥ 2 supervisors
≤ 4,999	3	2	0
5,000 - 9,999	2	22	12
10,000 - 14,999	9	23	19
15,000 - 19,999	1	14	11
20,000 - 24,999	3	8	14
25,000 - 29,000	0	3	5
30,000 – 74,999	0	4	21
≥ 75,000	0	0	6
Total	18	76	88

Table 17: Appointment of local supervisors on the basis of the population in 2016

Just like in the previous table, it is apparent from table 17 that 18 municipalities did not yet have a supervisor at

establishments, so they should have two supervisors at their disposal instead of one.

their disposal in 2014. This is almost 10% of the total number of responding municipalities. This is a negative trend compared with 2015, when 6% of the responding municipalities did not yet have a supervisor at their disposal.

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. Table 17 indicates that within the second largest categorie (the municipalities with 30,000 – 74,999 inhabitants), 4 municipalities in 2016 had only one supervisor at their disposal. This means that 2% of the municipalities with more than 30,000 residents did not comply in 2016 with the provision that there should be at least 2 supervisors at its disposal. In 2015, this percentage was a bit more than 1%,

In addition it can be concluded that 14 other municipalities did not have a supervisor at their disposal.

This means that 22 municipalities did not satisfy the provisions of the Environment Enforcement Act in 2016, which means 12% of the total number of responding municipalities. This is a negative trend compared with the 7% in 2014.

#### *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 in 2016, how many FTEs these had spent on environmental enforcement duties and how many FTEs were spent within their own municipality on administrative support in the context of the environmental enforcement duties by non-supervisors.

Table 18 gives an overview of the appointment and the amount of time dedicated by municipal supervisors per category of municipalities in 2016.

Number of inhabitants	Response	Municipality with appointed supervisor	Municipality without appointed supervisor	Total number of appointed municipal supervisors	Average number of supervisors per municipality	Amount of time dedicated to supervisory duties			Average amount of time dedicated to supervisory duties by supervisors (FTEs)
						Total FTE	Of which FTEs dedicated to environmental enforcement duties by the supervisor within the framework of the Environmental Enforcement Act	Of which FTEs dedicated to the administrative support of environmental enforcement duties by non-supervisors	
≤ 4,999	5	1	3	1	1.00	0.002	0.002	0	0.00
5,000 - 9,999	36	26	2	27	1.04	3.57	2.63	0.94	0.13
10,000 - 14,999	51	32	9	37	1.16	4	2.62	1.38	0.11
15,000 - 19,999	26	19	1	23	1.21	2.64	1.59	1.05	0.11
20,000 - 24,999	25	19	3	26	1.37	4.22	3.31	0.91	0.16
25,000 - 29,000	8	7	0	10	1.43	1.28	1.07	0.21	0.13
30,000 – 74,999	25	22	0	37	1.68	8.06	6.42	1.64	0.22
≥ 75,000	6	6	0	30	5.00	15	11.05	3.95	0.50
Total	182	132	18	191	1.45	38.77	28.69	10.08	0.20
<i>in 2015</i>	<i>244</i>	<i>189</i>	<i>14</i>	<i>263</i>	<i>1.39</i>	<i>58.43</i>	<i>42.26</i>	<i>16.17</i>	<i>0.22</i>

Table 18: Appointment and amount of time dedicated by municipal supervisors per category of municipalities in 2016

A total of 191 municipal supervisors were appointed in 132 municipalities with an appointed municipal supervisor in 2016. This is an average of 1.42 municipal supervisors per municipality with an appointed supervisor.

However, this average differs strongly when looking at the different categories of municipalities. In the smallest category the average number of supervisors per municipality is barely 1, whereas in the largest cities this average rises to 5. It can be deduced from this that the larger the population, the more supervisors were appointed within the municipalities.

Within the municipalities that had 132 municipal supervisors at their disposal in 2016, a total of 38.77 FTEs were dedicated to environmental enforcement duties, of which approximately 74% by supervisors to environmental enforcement duties under the Environmental Enforcement Act and about 26% to the administrative support of environmental enforcement duties by non-supervisors.

The average amount of time per municipal supervisor dedicated<sup>26</sup> to environmental enforcement duties (this includes the FTEs dedicated to administrative support) amounted to 0.20 FTEs in 2016. This means that the average municipal supervisor is used for 1/5 for the implementation of environmental enforcement duties under the Environmental Enforcement Act. Since there are on average 1.45 supervisors per municipality, the average amount of time dedicated<sup>27</sup> to enforcement duties was 0.29 FTEs per municipality that had a supervisor at its disposal.

If we look at the different categories of municipalities separately, a great diversity can be observed, as in previous reports, with regard to both the average time spent on environmental enforcement tasks as well as the use of time. In 2016, the average amount of time each municipal supervisor dedicated to environmental enforcement duties was 0.20 FTEs. In the largest municipalities (category of municipalities with more than 75,000 inhabitants) the supervisor dedicated an average of 50% of his or her time to environmental enforcement duties and the average amount of time these municipalities dedicated to environmental enforcement duties was 2.5 FTEs in total. However, the average amount of time dedicated per municipal supervisor as well as the amount of time dedicated per municipality strongly decrease as the number of inhabitants declines.

### *Environmental enforcement inspections*

In order to get an insight into the activities of municipal supervisors in 2016, table 19 not only shows the total number of environmental enforcement inspections carried out per category of municipalities, but also the average number of environmental enforcement inspections per supervisor, the average number of environmental enforcement inspections per FTE and the average amount of time dedicated to supervisory duties by supervisors in FTEs. The results of these inspections will then be discussed in the evaluation of the individual enforcement instruments in Chapter 3. Table 19 takes into account the total amount of time dedicated to environmental enforcement duties by the municipalities, which means both the number of FTEs dedicated to enforcement duties by the supervisors and the FTEs dedicated to the administrative support of environmental enforcement duties. As indicated earlier, the idea is to provide a more complete picture of the implementation of an inspection.

---

<sup>26</sup> The average amount of time dedicated per supervisor is the total number of reported FTEs dedicated to environmental enforcement duties per category of municipalities, divided by the total number of indicated appointed supervisors per category of municipalities.

<sup>27</sup> 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.

Number of inhabitants	Response	Number of appointed municipal supervisors per municipality	Total amount of time dedicated to environmental enforcement duties (FTE)	Number of environmental enforcement inspections carried out	Average number of environmental enforcement inspections per supervisor	Average amount of time dedicated to environmental enforcement duties per supervisor (FTE)	Average number of environmental enforcement inspections per FTE
≤ 4,999	5	1	0.002	0	0	0.00	0
5,000 - 9,999	36	27	3.57	283	10	0.13	79
10,000 - 14,999	51	37	4	417	11	0.11	104
15,000 - 19,999	26	23	2.64	310	13	0.11	117
20,000 - 24,999	25	26	4.22	276	11	0.16	65
25,000 - 29,999	8	10	1.28	143	14	0.13	112
30,000 - 74,999	25	37	8.06	856	23	0.22	106
≥ 75,000	6	30	15	1,276	43	0.50	85
<b>Total</b>	182	191	38.77	3,561	19	0.20	92
<i>in 2015</i>	244	263	58.43	5,097	19	0.22	87

Table 19: Efforts related to environmental enforcement duties by municipal supervisors per category of municipalities (according to population) in 2016

This table shows that the 191 municipal supervisors - who dedicated a total of 38.77 FTEs to environmental enforcement duties - together performed 3,561 environmental enforcement inspections in 2016. This is an average number of environmental enforcement inspections of 19 per supervisor and an average number of environmental enforcement inspections of almost 92 per FTE. This means that if each supervisor were able to focus full-time on environmental enforcement duties, a total of 17,805 environmental enforcement inspections would be carried out by the 191 appointed municipal supervisors. Due to the fact that the supervisors can dedicate on average only one-fourth of their time to enforcement duties, only 3,561 inspections were carried out in total. These data would again make it possible to argue in favour of adjusting the Environmental Enforcement Act and Environmental Enforcement Decree in the sense that the number of FTEs to be dedicated to enforcement duties is defined, instead of the number of supervisors per municipality.

When looking at the number of performed environmental enforcement inspections, the average number of environmental enforcement inspections per

supervisor and the average number of environmental enforcement inspections per FTE, a varied picture can be observed per category of municipalities. In all the categories the average number of environmental enforcement inspections per FTE is always higher than the average number of inspections per supervisor. This is owing to the fact that the appointed supervisors dedicated only a limited amount of their time to environmental enforcement duties within the framework of the Environmental Enforcement Act.

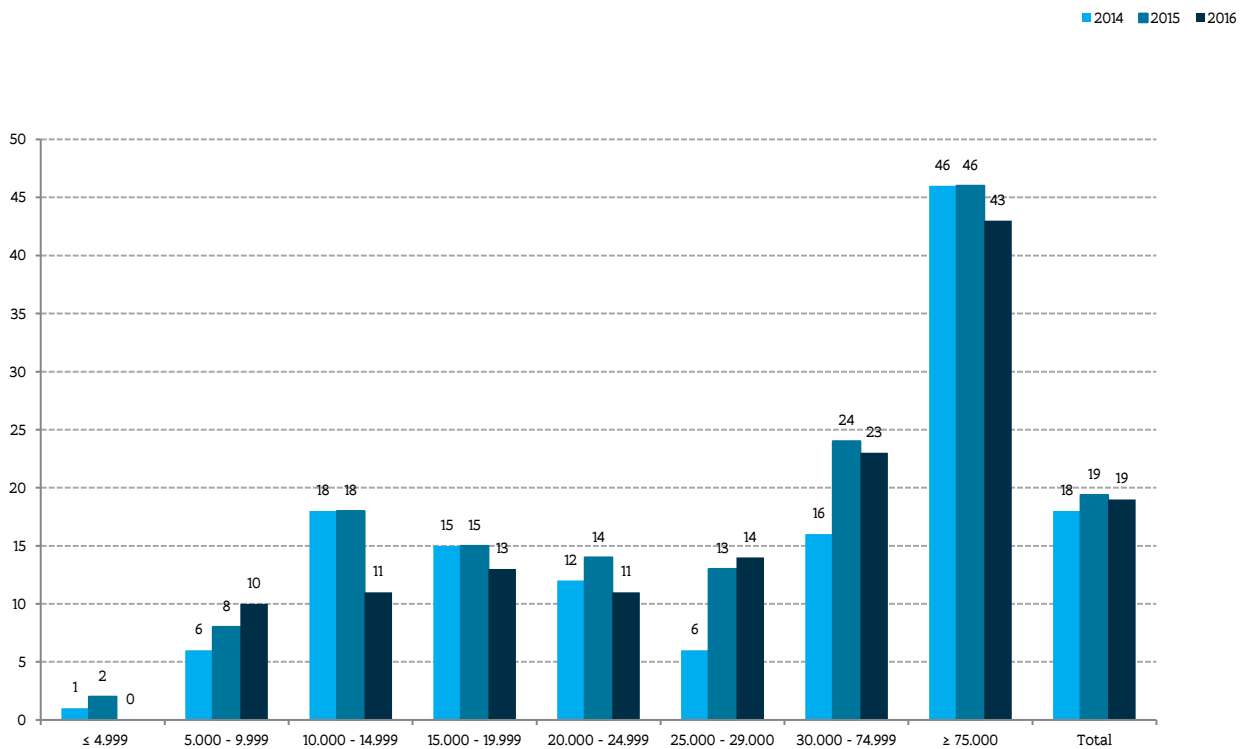
For 2016, the municipalities were asked to give the number of environmental enforcement inspections that were carried out following complaints and reports and the number of environmental enforcement inspections that were carried out at own initiative, for instance on the basis of an environmental enforcement programme. This is reflected in table 20.

ENVIRONMENTAL ENFORCEMENT INSPECTIONS					
Number of inhabitants	Total number of environmental enforcement inspections carried out	Number of environmental enforcement inspections carried out at own initiative	Number of environmental enforcement inspections following complaints and reports	Number of environmental enforcement inspections at the request of another public authority	Number of environmental enforcement inspections at the request of the police district
≤ 4,999	0	0	0	0	0
5,000 - 9,999	283	28	218	17	20
10,000 - 14,999	417	159	221	19	18
15,000 - 19,999	310	98	195	7	10
20,000 - 24,999	276	69	179	14	14
25,000 - 29,999	143	31	101	8	3
30,000 - 74,999	856	192	583	34	47
≥ 75,000	1,276	387	869	12	8
<b>Total</b>	<b>3,561</b>	<b>964</b>	<b>2,366</b>	<b>111</b>	<b>120</b>
<i>in 2015</i>	<i>5,097</i>	<i>1,329</i>	<i>3,768</i>	<i>/</i>	<i>/</i>

Table 20: Number of environmental enforcement inspections carried out by municipal supervisors within the framework of the Environmental Enforcement Act - following complaints and reports and at own initiative in 2016

In 2016, a total of 3,561 environmental enforcement inspections were carried out by the municipal supervisors. Almost 66% of these inspections were implemented following complaints and reports and about 25% were proactive inspections carried out at own initiative, possibly within the framework of planned actions or an environmental enforcement programme. The ratio of the number of inspections carried out as a result of complaints and reports to the inspections carried out on the police's own initiative was 74% in 2015 compared with 25% and 69% in 2014 compared with 31%. We can therefore conclude that the percentage share of proactive inspections remains more or less the same and that municipal supervisors are working to a large extent reactively.

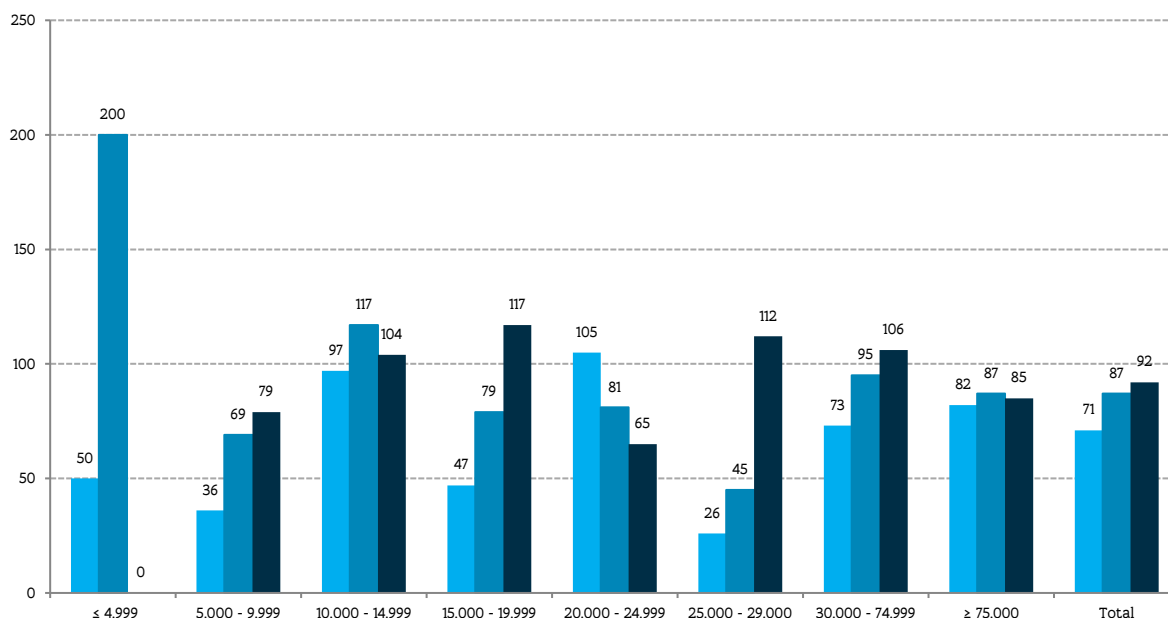
Graphs 9 and 10 provide an overview of the average number of environmental enforcement inspections per municipal supervisor and the average number of inspections per FTE in 2014, 2015 and 2016. Just like with the regional supervisors and the local police supervisors, the total number of FTEs refers to the number of FTEs that were dedicated by the supervisor 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. In this the different time-related aspects of supervisory duties are taken into account.



Graph 9: Average number of inspections per municipal supervisor

The graph above shows that the average number of inspections per municipal supervisor has overall remained fairly stable over the last three years, with an average number of inspections of 18 to 19 per municipal supervisor. This stable trend is also visible when looking at the different categories, except for a decline in the category of municipalities with a population of 10,000-14,999, where the average number of inspections per municipal supervisor declined significantly in 2016.

However, it is more precise to make a comparison between the average number of performed environmental enforcement inspections per FTE in the municipalities in 2014, 2015 and 2016, since the number of FTEs shows how much time was actually dedicated to environmental enforcement duties by the appointed municipal supervisors. The average number of environmental enforcement inspections per FTE in 2014, 2015 and 2016 is reflected in graph 10.



Graph 10: Average number of environmental enforcement inspections per FTE

The graph above shows the fluctuating character of the average number of environmental enforcement inspections per FTE in recent years, both for the total and for the various categories of municipalities. Only in the category of municipalities with a population of 25,000-29,000 does the average number of inspections per FTE increase dramatically compared with previous years.

### 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. According to Article 16(2) of the Environmental Enforcement Order, each intermunicipal association that appoints supervisors must appoint at least two supervisors for each tranche of five municipalities that has been started and that uses the supervisors of the inter-municipal association for the entire package of supervisory duties.

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.

In addition, it may be opportune that several supervisors are appointed within an intermunicipal association so that supervisors no longer have to perform inspections within their own municipality.



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

For the present environmental enforcement report, the Flemish High Enforcement Council for Spatial Planning and Environment has received a completed VHRM questionnaire from five intermunicipal associations. Four out of these five inter-municipal associations had appointed at least one supervisor within their association. The environmental enforcement activities of these four inter-municipal associations with an appointed supervisor will be discussed in this section.

The first inter-municipal association provides environmental enforcement support for 16 municipalities. In 2016, 5 supervisors were appointed within this inter-municipal association and 1 FTE was spent on environmental enforcement by these supervisors. In addition, 0.4 FTE of administrative support for environmental enforcement was provided by non-supervisory bodies. A total of 70 inspections were carried out. During these inspections, 18 recommendations were made and 31 infringements were identified. 18 warnings were issued for these violations; eight priority official reports and three non-priority official reports were drawn up. One administrative measure in the form of an administrative order was imposed, as well as two safety measures in the context of pollution by materials containing asbestos were imposed by means of a letter from the mayor.

A second inter-municipal association provides support for 27 municipalities. Three supervisors were appointed

in 2016, who together spent 1.40 FTE on environmental enforcement tasks. In addition, 0.1 FTE of administrative support by non-supervisory authorities was provided. 86 inspections were carried out, all at the request of another public authority. One recommendation was made and no violations were found, nor were any warnings or official reports drawn up.

A third inter-municipal association provides support to five municipalities. In 2016, one inter-municipal supervisor was appointed who spent 0.1 FTE on environmental enforcement tasks. No FTE administrative support was foreseen. A total of 40 environmental enforcement inspections were carried out in 2016, all at the request of another public authority. During these inspections, no recommendations were made and 30 violations were found. In five cases, no further action was taken following an identified infringement; 20 warnings were issued and no official reports were drawn up.

A fourth inter-municipal association provides support to 14 municipalities. In 2016, six supervisors were appointed within this inter-municipal association, who spent 0.1 FTE on environmental enforcement tasks. In addition, 1 FTE of administrative support by non-supervisory authorities were provided. 11 inspections were carried out, all at the request of another public authority. In 2016, no recommendations were made following the environmental enforcement inspections carried out. In addition, 16 infringements were identified during these checks. In respect of the identified violations, four warnings were issued and nine priority official reports were drawn up. One administrative measure was imposed in the form of a regularisation order.

### **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 actors to reach their objectives.

This report offers a picture of the total number of inspections compared to the number of inspections where a breach was identified. This allows statements to be made about the level of compliance and the targeted enforcement by the actors. In addition, the enforcement instruments are assessed in this report compared to the number of enforcement inspections performed where a breach was identified. This consideration was chosen because most of the instruments being evaluated can be used to identify an infringement.

In line with Chapter 2 'Evaluation of the regional environmental enforcement policy', the evaluation of the individual enforcement instruments, i.e. the recommendation, the warning, the incident report, the official report and the administrative measures, is based on the information obtained from the enforcement bodies. The use of these figures implies that all previously formulated comments and remarks also apply here.

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 several regional actors.

### 3.1 INSPECTIONS DURING WHICH A BREACH WAS IDENTIFIED

In order to make an accurate evaluation of the environmental enforcement instruments, the right parameters should be compared with each other. In table 21 the total number of performed inspections is broken down into the number of 'inspections during which no breach was identified' and the number of 'inspections during which a breach was identified'. 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 a breach was identified'. One exception to this is the instrument

'recommendation'. In principle, the advice can only be applied if an environmental offence or environmental infringement threatens to occur, but no violation has yet been found.

Table 21 gives an overview for each enforcement actor of the total number of environmental enforcement inspections performed, the number of inspections where no breach was identified and the number of inspections where a breach was identified in 2016.

Enforcement actor	Number of inspections	Number of inspections during which no breach was identified	% share 2016	Number of inspection during which a breach was identified	% share 2016
LNE-ALBON	211	182	86%	29	14%
LNE-AMI	11,050	10,558	96%	492	4%
LNE-AMV	1,316	927	70%	389	30%
ANB	7,355	5,677	77%	1,678	23%
AWZ	3	0	99%	3	100%
AWV	222	12	5%	210	95%
VAZG	7,317	6,626	91%	691	9%
NV De Scheepvaart (Shipping Agency)	22	0	0%	22	100%
OVAM	378	143	38%	235	62%
VLM	5,231	4,743	91%	488	9%
VMM	52	0	0%	52	100%
MOW – Division Maritime Access	2	0	0%	2	100%
Provincial supervisors	67	38	57%	29	43%
Municipal supervisors	3,561	1,893	53%	1,668	47%
Local police supervisors	3,550	2,781	78%	769	22%
Total	40,337	33,580	83%	6,757	17%

Table 21: Comparison between the number of 'inspections during which no breach was identified' and the number of 'inspections during which a breach was identified' for 2016

To place the data above in perspective or to interpret them, the following remark should be taken into consideration:

- LNE-AMI indicates that several inspections may be carried out for a single infringement, both before the infringement is actually established and after the infringement has been established. The first inspections are inspections in which several findings

are made that ultimately lead to the decision that an infringement has taken place. The latest inspections are referred to by the Environmental Inspectorate Division as progress inspections. They are intended to remedy or ensure a return to conformity. In order to avoid double counting of the violations, the department has linked a violation to one and only one inspection in its reporting and not to the prior inspections or the progress inspections that are also linked to it. However, because there are also prior inspections and progress inspections, there is a one-to-many relationship in the facts (one offence for several inspections). On the other hand, several infringements may be detected during a single inspection (or a group of inspections). As part of its programmatic and risk-based approach, LNE-AMI carries out extensive inspections to assess compliance with a wide range of environmental requirements. This also creates a deviation from the one-to-one relationship. The figure for the number of inspections where no offence was detected is an overestimation for LNE-AMI. This number includes prior inspections and progress checks, while the inspections are nevertheless linked to one infringement.

- As LNE-AMI pointed out, OVAM stated that a large number of firms were visited several times to check whether a warning or administrative measure had been complied with.

A first observation that can be made on the basis of table 21 is that, in 2016, a total of 40,337 environmental enforcement inspections were carried out by regional supervisors, provincial supervisors, municipal supervisors and local police supervisors. This is a decline compared with 2015, when 48,419 inspections were carried out, but the number still remains above the level of 2014, when 36,921 environmental enforcement inspections were carried out. As can also be concluded from Chapter 2.1.2, a decrease in the number of environmental enforcement inspections carried out is noticeable among almost all bodies. Only at VAZG did the number of environmental

enforcement inspections carried out increase, from 4,585 in 2015 to 7,317 in 2016.

With regard to the ratio between the number of inspections where no infringement was found and the number of inspections where an infringement was found, it can be concluded that out of a total of 40,337 environmental enforcement inspections carried out, 33,580 inspections did not reveal any infringement, which amounts to 83%, while 6,757 inspections, i.e. 17%, did reveal an infringement. Despite the decrease in the number of environmental enforcement inspections, this ratio does not differ significantly from that in 2015, when no infringement was found in 77% of the total number of environmental enforcement inspections carried out, and one was found in 23%. In 2014, the figures were similar, when no infringement was found in 73% of the inspections, and one was found in 27%. However, in 2013 and 2012 the ratio was 63% and 37%, in 2011 68% compared with 32% and in 2010 67% compared with 33%. This means that the fact that an infringement was found in approximately 1/3 of the environmental enforcement inspections has changed to an infringement in fewer than 1/5 of the environmental enforcement inspections. This increased percentage of inspections in which no infringement was found could indicate an increased level of compliance or a lack of risk-based approach and targeted monitoring.

If we look at the different enforcement bodies, the picture is quite diversified. Certain bodies record a high percentage for the number of inspections where an infringement was detected, which may indicate that these bodies maintain a high level of targeting, but may also indicate a low level of compliance. For other players, on the other hand, the number of inspections where an infringement has been detected is low. Whether or not the enforcement was the result of complaints and reports could potentially play a role in this respect. It is striking, however, that only in fewer than 1/5 of the inspections carried out by the local police supervisors was an infringement found. In 2015, 33% of the inspections revealed a violation, and in 2014, as many as 67% of the inspections.

### 3.2 INSPECTIONS WITHOUT FURTHER ACTION

In the survey the environmental enforcement actors were asked about the number of inspections carried out during which breaches – either environmental infringements or environmental offences – of the applicable environmental law were identified, but for which no action was taken. In table 22, the number of

'inspections without further action' is compared to the total number of 'inspections during which a breach was identified' by the enforcement actor in 2016. In addition, the percentage share of these 'inspections without further action' in 2015 and 2014 is given.

Enforcement actor	Number of inspections during which a breach was identified	Number of inspections without further action	% share 2016	% share 2015	% share 2014
LNE-ALBON	29	0	0%	0%	0%
LNE-AMI	492	0	0%	0%	0%
LNE-AMV	389	2	1%	15%	8%
ANB	1,678	0	0%	0%	0%
AWZ	3	1	33%	0%	/
AWV	210	0	0%	0%	0%
VAZG	691	197	29%	0%	/
NV De Scheepvaart (Shipping Agency)	22	0	0%	0%	/
OVAM	235	0	0%	0%	0%
VLM	488	0	0%	0%	0%
VMM	52	0	0%	0%	0%
MOW – Division Maritime Access	2	0	0%	0%	0%
Provincial supervisors	29	6	21%	71%	0%
Municipal supervisors	1,668	87	5%	13%	5%
Local police supervisors	769	30	4%	0%	23%
Total	6,757	323	5%	2%	9%

Table 22: Number of 'inspections without further action' compared to the total number of 'inspections during which a breach was identified' in 2014, 2015 and 2016

To place the data above in perspective or to interpret them, the following remark should be taken into consideration:

- ▶ LNE-AMV reports that, of the two inspections in which no action was taken on the basis of the infringements found, the cases in question contained insufficient evidence, concerned anonymous complaints or were not authorised by the complainant to take further data into account.

- ▶ VMM states that, as a rule, further action is not taken by VMM but by other supervisors who are called in.

The table above shows that in 5% of the total number of 6,757 environmental enforcement inspections carried out in which an infringement was found, no further action was taken with regard to the infringement found. This is a slight decrease from the 2% in 2015, but still below the level of 9% and 15% in 2014 and 2013

respectively. This evolution of the last few years can be viewed as positive. This shows that an increasing number of identified violations have consequences (appropriate or not) by means of the instruments provided for supervisors by the Environmental Enforcement Decree. This could indicate that supervisors are becoming increasingly familiar with the use of these tools.

Based on the above data we can conclude that it is mainly local supervisors and VAZG which have not taken any further action in recent years with regard to certain identified violations. However, one possible explanation for such inspections without further action could be that the violations identified are environmental infringements, and that the Environmental Enforcement Decree gives supervisors the freedom to decide whether or not to draw up an incident report.

### 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 calculating the difference between on the one hand the total number of inspections performed and on the other the number of inspections whereby no breach was identified, the number of inspections whereby no action was undertaken towards the identified breach, the number of recommendations, the number of demands, the number of reports of findings and the number of

official reports. This is thus always a minimum number, since several instruments can be used during an inspection. In table 23 the number of 'inspections with unknown results' is compared to the total number of environmental enforcement inspections carried out by the enforcement actor. Additionally, the percentage share of these 'inspections with unknown results' is shown for 2015 and 2014.

Enforcement actor	Total number of inspections	Number of inspections with unknown results	% share 2016	% share 2015	% share 2014
LNE-ALBON	211	0	0%	0%	0%
LNE-AMI	11,050	0	0%	0%	0%
LNE-AMV	1,316	263	20%	0%	11%
ANB	7,355	0	0%	0%	0%
AWZ	3	0	0%	0%	/
AWV	222	0	0%	0%	45%
VAZG	7,317	0	0%	0%	/
NV De Scheepvaart (Shipping Agency)	22	0	0%	0%	/
OVAM	378	26	7%	17%	0%
VLM	5,231	37	1%	1%	10%
VMM	52	33	63%	0%	96%
MOW – Division Maritime Access	2	0	0%	0%	0%
Provincial supervisors	67	0	0%	14%	0%
Municipal supervisors	3,561	0	0%	0%	1%
Local police supervisors	3,550	0	0%	0%	21%
Total	40,337	359	1%	1%	5%

Table 23: Number of inspections with unknown results in 2016 and their percentage of the total number of environmental enforcement inspections carried out in 2016, 2015 en 2014

- OVAM points out that many inspections are interim repeat inspections in which infringements may still be detected but for which a warning or administrative measure may not always be imposed again (as it is still pending).

Table 23 shows that for 4 environmental enforcement actors the result of part of the inspections is unknown, namely for AMV, OVAM, VLM and VMM.

In at least 359 of a total of 40,337 environmental enforcement inspections performed, the result in 2016 was unknown. This corresponds to less than 1% of the

total number of inspections. This confirms the 2015 figure, which was a decrease compared with 2014. At that time, the 5% result for a total of 36,921 environmental enforcement inspections carried out was unknown and this occurred for six enforcement bodies. The 2014 result, in turn, was a decrease compared with 2013, when the ratio was 11.5%, which was the case for half of the enforcement bodies who responded at the time.

This improvement in recent years could indicate better 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 breach was identified. When interpreting the data below, however, account should be taken of the fact that during an inspection a breach 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 breaches. An underestimation in terms of percentage of the number of formulated recommendations with regard to the number of inspections during which no breach was identified can therefore not be excluded.

Table 24 gives an overview of the application of the instrument 'recommendation' by the different supervisory actors. Additionally, the percentage share of the use of this instrument in 2015 and 2014 is also given.

Enforcement actor	Number of inspections during which no breach was identified	Number of recommendations by supervisors	% share 2016	% share 2015	% share 2014
LNE-ALBON	182	23	13%	8%	4%
LNE-AMI	10,558	208	2%	1%	1%
LNE-AMV	927	19	2%	1%	4%
ANB	5,677	43	1%	0%	0%
AWZ	0	0	0%	0%	/
AWV	12	0	0%	0%	0%
VAZG	6,626	3,385	51%	7%	/
NV De Scheepvaart (Shipping Agency)	0	2	0%	0%	/
OVAM	143	0	0%	0%	81%
VLM	4,743	11	0%	0%	1%
VMM	0	1	0%	0%	0%
MOW – Division Maritime Access	0	0	0%	0%	0%
Provincial supervisors	38	0	0%	0%	0%
Municipal supervisors	1,893	1,171	62%	84%	84%
Local police supervisors	2,781	1,436	52%	65%	18%
Total	33,580	6,299	19%	14%	7%

Table 24: Number of 'recommendations' made by supervisors compared to the total number of 'inspections during which no breach was identified'

To place the data above in perspective or to interpret them, the following remark should be taken into consideration:

- ▶ VLM stated that it had drawn up 11 recommendations in 2016. Advice from inspectors is often not implemented as it is given when no infringement has taken place, or when they are not authorised to act against the identified infringement. Sometimes a recommendation is listed together with a warning and only the warning is implemented in the monitoring system. Oral advice is not tracked by VLM.

The table above shows that a total of 6,299 recommendations were drawn up in a total of 33,580 inspections for which no violation was found. This equates to 19%. In 2015, a recommendation was drawn up for 14% of the total number of inspections carried out in which no violation was found; in 2014 this was 7%.

This increase is mainly due to the increase in the number of recommendations (absolute number and percentage in relation to the number of inspections in which no violation was found) from VAZG supervisors. In 2016, 3,385 recommendations were formulated for 6,626 inspections in which no violation was found, which means that in more than half of the number of inspections in which no violation was found, the VAZG supervisors took preventive action by formulating recommendations to prevent an imminent environmental infringement or an environmental crime.

As in previous years, we observe among the local police and municipal supervisors a high percentage of recommendations for inspections in which no violations were found. This means that the data for 2016 also show a distinction between the regional supervisory authorities on the one hand and the municipal supervisors and the local police supervisors on the other. The regional supervisory authorities - with the exception of VAZG - use the instrument of recommendation significantly less than the municipal supervisors and the supervisors of the local police.

Two notable findings can be made for the regional supervisory authorities:

- ▶ In 2014, OVAM still used the recommendation instrument in 4/5 of the total number of inspections in which no infringement was detected, while in 2016 and 2015 the instrument was no longer used at all by the supervisors of OVAM.
- ▶ The figures for VMM and De Scheepvaart explicitly show that the recommendation instrument is used for those inspections in which a violation was found (see above). In fact, VMM and De Scheepvaart did not report any inspections in which no violation was found. Supervisors of VMM and De Scheepvaart thus formulated one and two recommendations respectively for inspections in which an infringement was established, in combination with the use of other instruments such as warnings and official reports (see 3.5 and 3.6).

### 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 supervisor can consequently choose whether or not to apply the instrument of exhortation.

Table 25 shows the figures relating to the use of the instrument 'exhortation' compared to the total number of inspections during which a breach was identified in 2016. These figures were given by the different environmental enforcement actors. This percentage ratio is also given for 2015 and 2014 for purposes of comparison.

Enforcement actor	Number of inspections during which a breach was identified	Number of exhortation by supervisors	% share 2016	% share 2015	% share 2014
LNE-ALBON	29	29	100%	100%	110%
LNE-AMI	492	448	91%	300%	339%
LNE-AMV	389	101	26%	83%	32%
ANB	1,678	962	57%	60%	57%
AWZ	3	2	67%	100%	/
AWV	210	0	0%	0%	0%
VAZG	691	494	71%	100%	/
NV De Scheepvaart (Shipping Agency)	22	2	9%	100%	/
OVAM	235	184	78%	77%	58%
VLM	488	284	58%	45%	27%
VMM	52	18	35%	100%	0%
MOW – Division Maritime Access	2	1	50%	0%	0%
Provincial supervisors	29	21	72%	70%	0%
Municipal supervisors	1,668	1,050	63%	68%	39%
Local police supervisors	769	328	43%	69%	14%
Total	6,757	3,924	58%	81%	47%

Table 25: Number of 'exhortations' formulated by supervisors compared to the total number of 'inspections during which a breach was identified'

To place the data above in perspective, the following remark should be taken into account:

- ▶ The LNE-AMI adds the same caveat to the number of exhortations that it reports as the one concerning the number of inspections where a breach was identified as indicated at 3.1 Inspections where a breach was identified.
- ▶ OVAM, too, reiterates the comments it made in 3.1 Inspections where an infringement was detected.

Table 25 shows that warnings were a widely used instrument in 2016. A warning was issued in just under 3/5 of all inspections in which a violation was found. While this is a decrease compared with 81% of the instrument's use in 2015, it is still well above the ratio in 2014 and 2013, when it was 47% and 30% respectively.

In addition, the data above show that every body that carried out inspections in which an infringement was detected, with the exception of AWV, used the warning instrument and that the use of this instrument by some bodies has remained fairly stable in recent years (OVAM, regional supervisors) and has declined considerably for a number of bodies (local police supervisors, OVAM, LNE-AMV, VMM, etc.). For each player, with the exception of AWV, the instrument was used in at least 50% of the total number of inspections in which a violation was found. Many bodies even used the instrument for every infringement whereby an infringement was identified. In anticipation of the figures in the following chapters, it even appears that several players prefer to draw up a warning for an established infringement rather than formulate an official report or an incident report for the infringement. In the case of LNE-ALBON (Land and Soil Protection, Subsoil, Natural Resources Division of the Environment, Nature and Energy Department), for example, we see that, in 29 inspections in which an infringement was detected, 29 warnings were issued, no incident report and just one official report. VAZG supervisors also issued 494 warnings for 691 inspections in which violations were found. However, no incident reports nor official reports were drawn up. OVAM's supervisors issued 184 warnings in the 235 inspections in

which an infringement was detected, but only one incident report and 24 official reports were drawn up.

### 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 most important changes in the Environmental Enforcement Act is the decriminalisation of certain administrative infringements of environmental regulations with a limited effect on the environment, according to six cumulative criteria to be met by such 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 infringements, 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.

Table 26 reflects the number of identification reports drawn up by individual enforcement actors compared to the number of inspections during which a breach was identified. This percentage is also given for 2015 and 2014 for comparison.

Enforcement actor	Number of inspections during which a breach was identified	Number of identification reports by supervisors	% share 2016	% share 2015	% share 2014
LNE-ALBON	29	0	0%	2%	0%
LNE-AMI	492	14	3%	2%	4%
LNE-AMV	389	2	1%	3%	0%
ANB	1,678	89	5%	4%	1%
AWZ	3	0	0%	0%	/
AWV	210	0	0%	0%	0%
VAZG	691	0	0%	0%	/
NV De Scheepvaart (Shipping Agency)	22	0	0%	0%	/
OVAM	235	1	0%	1%	2%
VLM	488	6	1%	0%	0%
VMM	52	0	0%	0%	0%
MOW – Division Maritime Access	2	0	0%	0%	0%
Provincial supervisors	29	0	0%	0%	0%
Municipal supervisors	1,668	18	1.08%	1.64%	0%
Local police supervisors	769	84	10.92%	0.65%	0%
Total	6,757	214	3%	2%	1%

Table 26: Number of 'identification reports' drawn up by supervisors compared to the number of 'inspections during which a breach was identified'

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 a breach was identified, including both environmental offences and

environmental infringements. The figures in table 26 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.

Compared with the other instruments, it can also be observed for 2016 that in general the incident report instrument is not used often. However, a very slight increase in use can be observed in 2016 compared with 2015: 3% and 2% respectively. This slight increase in the number of incident reports can be explained by the increased use of the instrument by those enforcement bodies that had already used it in previous years, which means that those who already use the incident report to deal with identified environmental infringements are increasingly doing so. In addition, the increase could be explained by the fact that several violations were decriminalised.

As mentioned above, the increase in the number of incident reports does not necessarily indicate that the number of environmental infringements detected in 2016 may also have increased. After all, supervisors are free to decide whether or not they draw up an incident report for the identified environmental infringement.

In advance of the figures in the next chapter, a discrepancy can be found for 2016 as well - just like in the previous reports - in the number of identification reports that were drawn up and communicated by supervisory bodies and the number of reports that were actually referred to the Environmental Enforcement, Environmental Damage and Crisis Management Division (LNE-AMMC) of the Department of Environment, Nature and Energy. In 2016, the municipal supervisors compiled a total of 18 incident reports, while LNE-AMMC (Environmental Enforcement, Environmental Damage and Crisis Management Division of the Environment, Nature and Energy Department) stated that it had received only five incident reports from municipal supervisors. Local police supervisors also stated that they had drawn up a total of 84 incident reports, while LNE-AMMC received only four of them. No discrepancies

were found among regional supervisors in 2016. 112 incident reports were drawn up in 2016. LNE-AMMC reported having received 122 incident reports from these supervisory authorities. The decrease in the number of regional incident reports in 2016 compared with 2015 can be attributed to OVAM, which drew up 46 incident reports in 2015 compared with one in 2016. OVAM states that the reason for this is that it is not possible to draw up an incident report for all types of infringement. In 2015, OVAM's priority was partly to carry out a type of inspection in which a number of administrative infringements could be included in an incident report. In 2016, priority was given to other sectors where violations could only be recorded in official reports.

### 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. Table 27 provides an overview of the initial official reports drawn up per enforcement actor with respect to the number of inspections during which a breach was identified. This percentage is again given, for comparison, for 2015 and 2016.

Once again, only limited figures are available, just like for the instrument 'identification report'. The assessment of

the number of official reports drawn up in relation to the number of inspections in which a violation was found does not provide an entirely accurate picture of the degree to which environmental crimes are identified. After all, the number of inspections where a violation has been established may cover environmental crimes and environmental infringements.

Enforcement actor	Number of inspections during which a breach was identified	Priority	% aandeel prioritaire PV's	Non-priority	% share of non-priority ORs	% share of priority ORs 2015	% share of non-priority ORs 2015	% share of priority ORs 2014	% share of non-priority ORs 2014
LNE-ALBON	29	0	0%	1	3%	0%	0%	0%	0%
LNE-AMI	492	177	36%	322	65%	43%	57%	38%	62%
LNE-AMV	389	2	1%	0	0%	23%	0%	4%	0%
ANB	1,678	299	18%	328	20%	13%	23%	19%	24%
AWZ	3	1	33%	0	0%	0%	0%	/	/
AWV	210	0	0%	210	100%	0%	100%	0%	55%
VAZG	691	0	0%	0	0%	0%	0%	/	/
NV De Scheepvaart (Shipping Agency)	22	20	91%	0	0%	100%	0%	/	/
OVAM	235	15	6%	9	4%	0%	1%	3%	18%
VLM	488	147	30%	3	1%	39%	0%	20%	1%
VMM	52	0	0%	0	0%	13%	0%	0%	4%
MOW – Division Maritime Access	2	1	50%	0	0%	0%	0%	0%	0%
Provincial supervisors	29	2	7%	0	0%	5%	0%	200%	0%
Municipal supervisors	1,668	152	9%	181	11%	9%	9%	4%	5%
Local police supervisors	769	238	31%	209	27%	26%	19%	22%	9%
Total	6,757	1,054	16%	1,263	19%	13%	13%	16%	13%

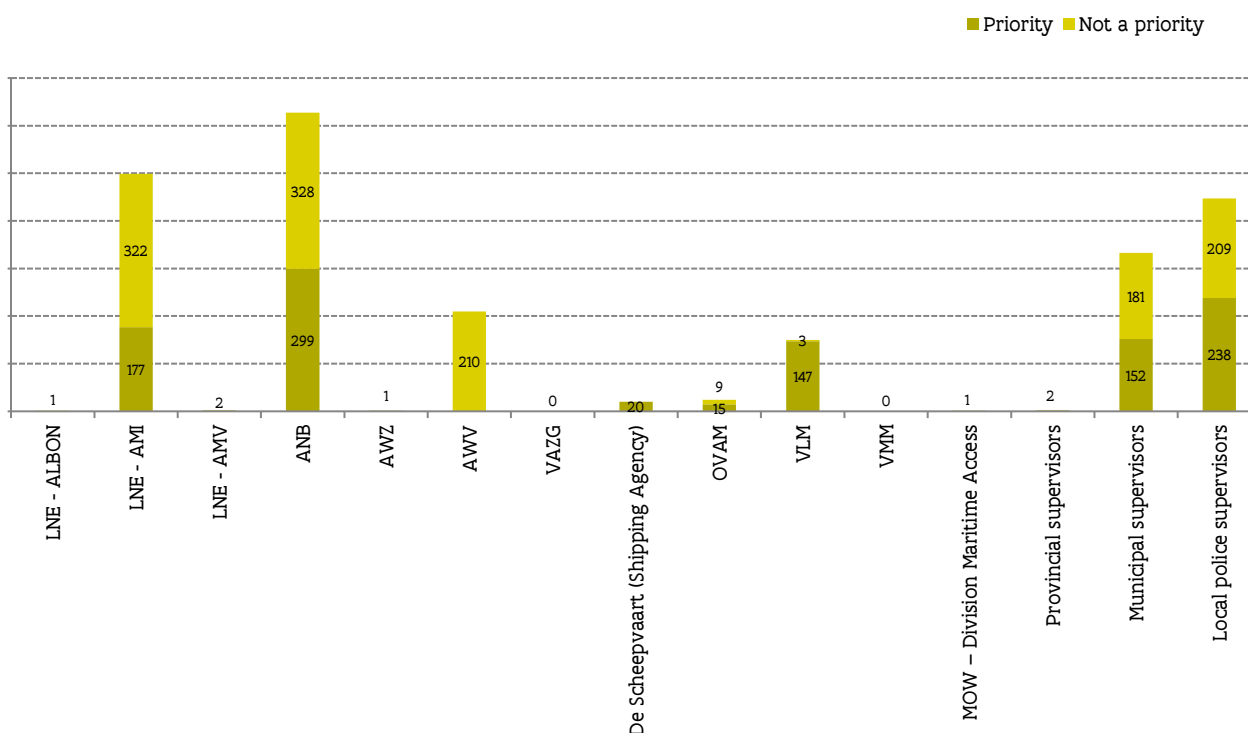
Table 27: Number of 'official reports' drawn up by supervisors compared to the number of 'inspections during which a breach was identified'

In 2016, an official report was drawn up for 2,317 of the total of 3,757 inspections during which a breach was identified. This is a percentage of 34%. Compared with 2015, a percentage increase in the number of inspections in which official reports were drawn up can be noted, despite the fact that in absolute terms the number of official reports drawn up fell from 2,890 in 2015 to 2,317

in 2016. This can be explained by the fact that the number of inspections in which an infringement was detected fell from 11,196 in 2015 to 6,758 in 2016, i.e. 40%, while the absolute number of official reports only decreased by 20% compared with 2015.

As in the previous reports, the data in table 27 point to the existing pragmatic approach of Article 29 of the Code of Criminal Procedure, which stipulates that an official report must be drawn up when a crime is established and that this official report must be submitted to the Public Prosecutor. Taking into account the limitation of the figures and the fact that the violations identified could also constitute environmental offences, we may conclude that the majority of the enforcement bodies also use instruments, as already demonstrated in the section on warnings, other than the official report in order to achieve the intended objective, without always having to initiate criminal proceedings. The fact that for most enforcement bodies there is no one-to-one relationship between the number of inspections in which a violation was found and the number of official reports drawn up points to this.

In March 2013, the procedural guidelines ‘Priority Memorandum Prosecution Policy for Environmental law in the Flemish Region’ were signed by the Minister of the Environment and the Minister of Justice. These procedural guidelines set priorities for the purposes of supervision and prosecution so that both were in line with each other. These guidelines also stated that official reports drawn up for environmental offences stated in the priority memorandum were considered ‘priority official reports’. The VHRM has, in the questionnaire for this Environmental enforcement report 2016 also asked for a breakdown between the number of priority and non-priority official reports. The following graph shows, together with the figures in Table 27, this ratio.



Graph 11: Ratio between priority and non-priority official reports in 2016



Graph 11 shows a ratio of 45% of priority to 55% of non-priority official reports in relation to the total number of official reports drawn up in 2016. In 2015 and 2014, these ratios were 49% and 55% respectively. In general, we can therefore conclude that approximately half of the official reports drawn up are categorised by the supervisors as priorities pursuant to the Priorities Memorandum.

A distinction can, however, be seen between the various enforcement actors. Certain actors draw up (almost) exclusively priority official reports, such as the VLM, The Shipping Agency and the OVAM. Other actors draw up primarily non-priority official reports, for example the AWW, or draw up both priority and non-priority official reports.

## 3.8 EVALUATION OF THE INSTRUMENT ‘ADMINISTRATIVE MEASURE’ AND ‘APPEALS AGAINST DECISION TO IMPOSE ADMINISTRATIVE MEASURES’

### 3.8.1 Evaluation of the instrument ‘administrative measure’

Articles 16.4.2 through 16.4.18 quater 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, as well as the possibility for imposing an administrative penalty payment in the event of an administrative measure not being implemented or not being implemented on time. 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 (regularisation order);
- ▶ an order to the suspected offender to end activities, works, or the use of objects (prohibition order);

- ▶ 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 (administrative coercion);
- ▶ a combination of the measures.

The supervisor, the mayor and the provincial governor consequently have the choice of whether or not to apply the administrative measure in a specific situation. The regularisation order has the same purpose as the warning; supervisors may choose the most appropriate instrument. When choosing the instrument, the principle of proportionality must be respected in accordance with art. 16.4.4 of DABM.

Table 28 gives an overview of the total number of imposed administrative measures in relation to the number of inspections during which a breach was identified per enforcement actor in 2016. This percentage is again given, for comparison, for 2015 and 2014.

Enforcement actor	Number of inspections during which a breach was identified	Number of administrative measures by supervisors	% share 2016	% share 2015	% share 2014
LNE-ALBON	29	0	0%	0%	0%
LNE-AMI	492	15	3%	4%	4%
LNE-AMV	389	0	0%	0%	0%
ANB	1,678	219	13%	11%	9%
AWZ	3	0	0%	0%	/
AWV	210	0	0%	0%	0%
VAZG	691	0	0%	0%	/
NV De Scheepvaart (Shipping Agency)	22	2	9%	100%	/
OVAM	235	11	5%	1%	6%
VLM	488	6	1%	2%	1%
VMM	52	0	0%	4%	0%
MOW – Division Maritime Access	2	0	0%	0%	0%
Provincial supervisors	29	0	0%	0%	0%
Municipal supervisors	1,668	111	7%	8%	6%
Local police supervisors	769	16	2%	4%	2%
Total	6,757	380	6%	5%	5%
<i>in 2015</i>	<i>11,196</i>	<i>585</i>	<i>5%</i>		

Table 28: Number of imposed administrative measures compared to the number of inspections during which a breach was identified in in 2014, 2015 en 2016

In 2016, a total of 380 administrative measures were imposed by the supervisory authorities. This is a decline compared with the 585 administrative measures imposed in 2015 and the 447 administrative measures imposed in 2014. In terms of percentage and compared to the number of inspections where a violation was found, the number of imposed administrative measures remained approximately the same in recent years.

As in previous years, the table above shows that not all enforcement bodies make use of the administrative measures instrument. The majority of imposed administrative measures were imposed by ANB, i.e. 58%, followed by municipal supervisors, who imposed 29% of the total number of administrative measures imposed in 2016.

Table 29 gives an overview of the share of the different types of administrative measures in relation to the total number of administrative measures imposed per enforcement actor in 2016.

In the survey for the present environmental enforcement report 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 table 29 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 for the present environmental enforcement report as well. These numbers are reflected in table 29, together with the total number of imposed administrative measures.

Since 2014, regional supervisors can impose an administrative penalty payment together with administrative measures in the event that the administrative measures are not implemented or are not implemented in time. The regional supervisors were therefore asked in how many cases the imposed administrative measures were linked to an administrative penalty payment and in how many cases this administrative penalty payment was actually collected. The following table shows this.

Regional enforcement body	Administrative measures												In how many cases were the imposed administrative measures linked to an administrative penalty payment?	In how many cases has this administrative penalty payment been collected?
	Prohibition order		Regularisation order		Administrative coercion		Combination of the administrative measures mentioned		Imposed following a request		It was impossible to have the administrative measure implemented within the set term			
	#	%	#	%	#	%	#	%	#	%	#	%		
LNE-ALBON	0	0%	0	0%	0	0%	0	0%	0	0%	0	0%	0	0
LNE-AMI	3	20%	9	60%	0	0%	3	20%	0	0%	0	0%	0	0
LNE- AMV	0	0%	0	0%	0	0%	0	0%	0	0%	0	0%	0	0
ANB	9	4%	137	63%	59	27%	14	6%	1	0%	10	5%	1	0
AWZ	0	0%	0	0%	0	0%	0	0%	0	0%	0	0%	0	0
AWV	0	0%	0	0%	0	0%	0	0%	0	0%	0	0%	0	0
VAZG	0	0%	0	0%	0	0%	0	0%	0	0%	0	0%	0	0
NV De Scheepvaart (Shipping Agency)	0	0%	2	100%	0	0%	0	0%	0	0%	0	0%	0	0
OVAM	3	27%	8	73%	0	0%	0	0%	0	0%	6	55%	0	0
VLM	0	0%	2	33%	0	0%	4	67%	0	0%	1	17%	0	0
VMM	0	0%	0	0%	0	0%	0	0%	0	0%	0	0%	0	0
MOW – Division Maritime Access	0	0%	0	0%	0	0%	0	0%	0	0%	0	0%	0	0
Provincial supervisors	0	0%	0	0%	0	0%	0	0%	0	0%	0	0%	/	/
Municipal supervisors	29	26%	64	58%	6	5%	12	11%	2	2%	20	18%	/	/
Local police supervisors	5	31%	8	50%	1	6%	2	13%	4	25%	1	6%	/	/
Total	49	13%	230	61%	66	17%	35	9%	7	2%	38	10%	1	0
<i>in 2015</i>	<i>97</i>	<i>17%</i>	<i>258</i>	<i>44%</i>	<i>131</i>	<i>22%</i>	<i>99</i>	<i>17%</i>	<i>55</i>	<i>9%</i>	<i>134</i>	<i>23%</i>	<i>4</i>	<i>1</i>
<i>In 2014</i>	<i>81</i>	<i>18%</i>	<i>282</i>	<i>63%</i>	<i>29</i>	<i>6%</i>	<i>55</i>	<i>12%</i>	<i>18</i>	<i>4%</i>	<i>68</i>	<i>15%</i>	<i>/</i>	<i>/</i>

Table 29: Types of administrative measures imposed in 2016

To place the data above in perspective or to interpret them, the following remarks should be taken into consideration:

- ▶ LNE-AMV states that the number of reported administrative measures refers to inspections that were started and completed in 2016.
- ▶ The Environmental Inspectorate Division (LNE-AMI) stated that it was not possible for them to give a clear answer to the question about the number of cases in which it was not possible to implement the measure within the imposed term. Settling/executing administrative measures does not always run in accordance with the calendar

year. An administrative measure often includes various actions that need to be undertaken by the company but which cannot all be implemented simultaneously; nor can all measures be inspected immediately after the period has lapsed etc. Because of this, clear and correct reporting about this by the LNE-AMI is not possible and this division chose not to answer this question.

Table 29 shows that the majority of the total of 380 administrative measures imposed in 2016 were regularisation orders, namely 61% of the total of imposed administrative measures. During previous years too, this was the most used type of administrative measure. In 2015 this represented 44% and in 2014 63% of the total number of imposed administrative measures.

In 2016, the administrative measure took the form of an administrative order 66 times, which means that 17% of the total number of administrative measures involved administrative orders. This is - in absolute numbers - a sharp decrease in the number of times that the administrative measure took the form of an administrative order compared with 2015, when this instrument was used 131 times. In 2014, this instrument was used only 29 times.

A total of 49 injunctions were issued in 2016, representing 13% of the total number of imposed administrative measures. In 2015, this instrument was used 97 times, which represented 17% of the total number of administrative measures imposed. In 2014, this ratio was 18%.

About 2% of the total number of administrative measures were imposed following a petition in 2016. This is a decline compared to 9% in 2015 and 4% in 2014.

Table 29 shows that it was impossible for 38 of the total of 380 imposed administrative measures to have these measures carried out within the imposed term. This equates to a 10% decrease in this ratio compared with 2015 and 2014. In 2015 it was not possible to have 23% of the total administrative measures imposed

implemented by the deadline imposed, and in 2014 that was 15%. These figures seem to indicate that the implementation of administrative measures has been easier in the last year.

A prerequisite for the effectiveness of administrative measures is that they are actually implemented within an imposed term. Delaying this measure may result in greater damage and higher risks. The instrument 'administrative penalty payment' can provide a solution for applying additional pressure when the administrative measure is not performed in time. In 2016, only one administrative penalty payment was linked to an administrative measure. In that one case, the administrative penalty payment was not actually collected. As in previous years, only ANB made use of the instrument of the administrative penalty payment in 2016.

The administrative penalty payment instrument can only be used by regional supervisors. The above data show that approximately 1/10 of administrative measures imposed by local police supervisors and by municipal supervisors are not carried out within the required period. On the basis of this information, it could be recommended that local supervisors should also be able to use this new penalty payment instrument.

### 3.8.2 Appeals against decisions to impose administrative measures

*Number of appeals lodged against decisions regarding administrative measures and against the administrative penalty payment and decisions relating thereto*

Article 16.4.17 of DABM provides that a person on whom administrative measures have been imposed, including administrative penalty payments, may appeal to the minister against a decision regarding administrative measures, including administrative penalty payments that may have been imposed. The appellant may also lodge an appeal against the administrative penalty payment alone. The appeal must be submitted to the

minister at the address of the Department of the Environment, Nature and Energy, the Environmental Enforcement, Environmental Damage and Crisis Management Division (LNE-AMMC) within fourteen days of the notification of the decision regarding the administrative measures or the administrative penalty payment.

In 2016, 33 appeals were lodged with the Minister against decisions to impose administrative measures.

In 2016, no appeals were lodged against decisions relating to administrative measures that were linked to an administrative penalty payment, nor against administrative penalty payments alone.

Of the 31 admissible appeals submitted in 2016, 16 related to environmental hygiene and 17 to environmental management.

LNE-AMMC is responsible for preparing the appeal case; in other words, LNE-AMMC examines its admissibility,

	2016	2015	2014
Total number of admissible appeals	31	39	52
Decision by the Minister within the term laid down by the Flemish Parliament Act	26	36	45
Number of times the minister requested an extension of the deadline	2	3	7
Number of cases in which the minister has not yet made a decision because the term was still running at the time of reporting	5		
Number of appeals declared well-founded	3	5	14
Number of appeals declared partially well-founded	9	9	12
Number of appeals declared unfounded	9	15	15
Number of appeals declared devoid of purpose	5	7	4

Table 30: Comparison of the decision of the Minister with regard to the appeals against decisions to impose administrative measures that were declared admissible in 2016, 2015 en 2014

Table 30 shows that in 2016 a decision about the 26 admissible appeals was always reached within the term laid down by Flemish Parliament Act. For the other 5 appeal files, the term within which the minister must reach a ruling had not lapsed when this report was made.

organises a hearing if necessary and formulates a recommendation for the minister. The figures obtained via the LNE-AMMC survey reveal that two appeals were ruled inadmissible and 31 admissible.

The Minister has to make a decision within a period of 90 days from the receipt of the appeal. Provided that the appellant and the person who imposed the administrative measure are notified of this, the minister may extend this period once by 90 days.

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. Table 30 gives an overview of the decisions of the Minister with regard to the appeals against decisions to impose administrative measures that were declared admissible in 2016, 2015 and 2014.

The majority of the minister's decisions in 2016, i.e. 35%, concerned a dismissal of the appeal as unfounded, while 35% were also partially upheld and only 12% fully upheld. Moreover, 19% of the minister's decisions concerned appeals devoid of purpose<sup>28</sup> In 2015 and 2014, the

<sup>28</sup> The difference between an inadmissible appeal and an appeal devoid of purpose can be illustrated with a few examples. An inadmissible

appeal does not satisfy the admissibility conditions for the appeal. For example: the period of appeal has not been respected or the appeal file

minister's decisions concerned appeals justified in full in 14% and 31% of cases respectively; 25% and 27% justified in part; 42% and 33% of appeals were based on an unfounded statement of grounds. In addition, 19% and 9% respectively of the minister's decisions were devoid of purpose. It can be observed that, in recent years, the majority of the minister's decisions on whether the appeals concerning administrative measures were admissible have been dismissed on the grounds that they were unfounded.

Table 31 shows the percentage of appeals against decisions to impose administrative measures in comparison to the total number of administrative measures imposed, by type, both for 2016 as 2015 and 2014.

	2016	2015	2014
Prohibition order			
Regularisation order	14.29%	5%	15%
Administrative coercion	10.43%	12%	16%
Combination of the administrative measures stated	1.52%	2%	10%
Prohibition order	2.86%	4%	0%
In how many cases was an administrative penalty payment linked to it?	0.26%	/	/
Number of appeals related to environmental hygiene	16		
Number of appeals related to environmental management	17		

Table 31: Percentage share of appeals against decisions to impose administrative measures in comparison to the total number of administrative measures imposed, by type, in 2016, 2015 en 2014

The table above shows that - unlike in previous years - the appeals lodged in 2016 were mainly related to injunctions. For example, 24 appeals were lodged against the 230 regularisation orders issued in 2016.

*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 LNE-AMMC advises the Minister in these appeals.

Table 32 gives an overview of the number of appeals lodged against refused petitions to impose administrative measures.

does not contain a copy of the contested decision. Appeals declared devoid of purpose are, for example, the appeals whereby the administrative measure was revoked by the supervisor himself, after all conditions - contained in the administrative measure decision - were

satisfied by the offender. The subject of the appeal disappears, because the offender complies with the ruling, but after the appeal has been ruled admissible.



Number of appeals lodged against refused petitions for the imposition of administrative measures			
	2016	2015	2014
Total appeals against rejected petitions for imposing administrative measures	11	5	10
Number of appeals declared admissible	9	3	8
Number of appeals declared well-founded	3	2	0
Number of appeals declared partially well-founded	0	/	0
Number of appeals declared unfounded	3	1	5
Number of appeals declared devoid of purpose	2	0	1
Appeals for which a decision was reached within the period of 60 days laid down by the Flemish Parliament Act	7	3	7
Appeals in respect of which no decision has yet been given because the time limit is still running (even if this is a non-mandatory time limit)	0	/	/
Number of appeals related to environmental hygiene	11	/	/
Number of appeals related to environmental management	0	/	/

Table 32: Number of appeals lodged against refused petitions for the imposition of administrative measures in 2016, 2015 en 2014

Table 32 shows that, in 2016, 11 appeals were lodged against refused petitions for the imposition of administrative measures, all relating to environmental hygiene. This is an increase compared to 2015 and 2014 when 5 and 10 such appeals were lodged.

82% of the appeals lodged in 2016 were declared admissible. This means that two appeals were declared inadmissible. Three out of nine admissible appeals were upheld and three were dismissed as unfounded.

In 7 of the admissible appeals, the decision was reached within the term of 60 days provided in the decree .

### 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.

Applying a safety measure is thus an administrative act for which the supervisors, the mayors and the provincial governors have discretionary competence.

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 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<sup>29</sup>. 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. It will only be examined how many and which safety measures were taken by which actors.

Table 32 gives an overview of the number and type of imposed safety measures, broken down by environmental enforcement actor, in 2016. 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 table 32. In addition, the table shows the total number of safety measures, per actor, for 2015 and 2014. The security measures imposed by the governors and the mayors have already been discussed separately in chapters 2.3.1 and 2.3.4 respectively.

---

<sup>29</sup> Explanatory Memorandum; parliamentary proceedings, Session 2006-2007, 13 June 2007, Document 1249 (2006-2007) - No. 1, pages 12 and 15.

Enforcement actor	The suspension or execution of works, actions, or activities	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	Other	Combination	Total 2016	Total 2015	Total 2014	It was not possible to have the measure carried out within the set term
LNE-ALBON	0	0	0	0	0	0	0	0	0	0	0
LNE-AMI	0	1	0	0	0	0	0	1	1	2	0
LNE-AMV	0	0	0	0	0	0	0	0	0	0	0
ANB	0	0	0	0	0	0	0	0	0	0	0
AWZ	0	0	0	0	0	0	0	0	0	0	0
AWV	0	0	0	0	0	0	0	0	0	0	0
VAZG	29	0	0	0	0	0	0	29	0	/	0
NV De Scheepvaart (Shipping Agency)	2	0	0	2	0	0	0	4	41	21	0
OVAM	0	0	0	0	0	0	0	0	16	0	0
VLM	0	0	0	0	0	0	0	0	1	0	0
VMM	0	0	0	0	0	0	0	0	0	0	0
MOW – Division Maritime Access	0	0	0	0	0	0	0	0	0	0	0
Provincial supervisors	0	0	0	0	0	0	0	0	0	0	0
Municipal supervisors	13	3	0	7	3	2	1	29	29	53	1
Local police supervisors	14	0	0	3	0	0	0	17	42	21	0
Total	58	4	0	12	3	2	1	80	130	97	1
<i>in 2015</i>								97			13

Table 33: Nature of the imposed safety measures

To place the data of table 33 in perspective or to interpret them, the following remark should be taken into consideration :

- ▶ The LNE-AMI stated that it was not possible to give a clear answer to the question about the number of cases in which it was not possible to implement the measure within the imposed term. Imposing/implementing safety measures does not always run parallel with the calendar year. A safety measure often consists of several actions to be taken by the company that cannot all be taken care of at the same time, nor can all measures be checked immediately after the expiry of the term, etc. As a result, it is not possible for LNE-AMI to report on this clearly and accurately and LNE-AMI does not wish to provide a figure for this.

In 2016, a total of 80 safety measures were imposed.. This is a decline compared with the 130 safety measures imposed in 2015 and the 97 safety measures imposed in 2014.

Similar to previous years, the majority of safety measures, namely 36% of the total number of imposed safety measures were imposed by municipal supervisors.

In 2016, VAZG also imposed 36% of the total number of safety measures imposed. Among De Scheepvaart's supervisors, there was a significant drop to four safety measures imposed compared with 2015, when 41 safety measures were imposed. The local police supervisors imposed 17 safety measures in 2016. Besides VAZG, only two regional supervisory authorities imposed safety measures in 2016, namely De Scheepvaart and LNE-AMI.

In 12 out of a total of 80 imposed measures, the safety measure involved confiscating, storing or removing of sensitive items, including waste and animals; in almost 73% of cases, the suspension or execution of works, operations or activities; and in four cases, the safety measure involved a prohibition or evacuation of certain areas, grounds, buildings or roads.

The data show that in 2016, only 1% of the total number of safety measures imposed were not implemented within the imposed deadline. In 2015 and 2014, 7% and 13% respectively of the total number of safety measures imposed were still not implemented within the imposed deadline.

### 3.10 CASE STUDY

The previous sections provided a statistical picture of the way in which the instruments from the Environmental Enforcement Decree were used. In order to get some idea of the way in which environmental enforcement inspections are carried out in practice and in the field and the various instruments are used, the members, representatives and deputies of the VHRM were asked to provide cases for this environmental enforcement report that make the environmental enforcement practice more concrete for the reader. A number of practical examples from OVAM, the federal police and VLM are given below.

#### I. OVAM

One municipality, together with the police, had carried out inspections at a particular company that dismantled end-of-life vehicles for the recovery of second-hand parts. Warnings were issued and an official report drawn up. However, the operator continued these activities. In June 2016 OVAM, together with the municipality, carried out an inspection at this company; 85 end-of-life vehicles were present on the site. The company did not have an accreditation as a centre for the decontamination, dismantling and destruction of end-of-life vehicles. The company did not have an environmental permit and many of the Vlare conditions were not being met (including the storage of end-of-life vehicles on liquid-proof floors). An official report was drawn up and an administrative measure imposed (including the removal of end-of-life vehicles to a licensed centre).

A follow-up inspection was carried out in the autumn: all but a few end-of-life vehicles had been removed. Partly because an extensive joint inspection was undertaken (recording all cars present and examining whether they qualify as end-of-life vehicles), the operator did take action. A permit was applied for and obtained. The procedure for arriving at accreditation (including prior inspection by an independent inspection authority) is still ongoing. As this procedure is still ongoing, the administrative measure has not yet been lifted. The official report drawn up by the public prosecutor was submitted to AMMC with a view to the imposition of an alternative administrative fine. The case is being processed by AMMC.

Before



After



Before



After



*Case study and photographs provided by the Public Waste Agency of Flanders (OVAM)*

At the end of 2014, a company holding more than 300 end-of-life vehicles was once again inspected by OVAM. The end-of-life vehicles were being dismantled for the recovery of second-hand parts. The company did not have recognition as a centre for the decontamination, dismantling and destruction of end-of-life vehicles. This had never been requested. The company did not have an environmental permit either (in the past, the company had applied for a permit, but this had been refused) and numerous Vlarem conditions were not being met (including the storage of end-of-life vehicles on liquid-proof floors). An official report was drawn up and an administrative measure imposed (including the removal of end-of-life vehicles to an accredited centre).

A follow-up inspection in October 2016 established that all end-of-life vehicles had been removed. The official report drawn up by OVAM led to a lawsuit. The company was ordered to clean up and pay a fine. The administrative measure has not yet been lifted because not all the provisions have yet been implemented.

Before



After



*Case study and photographs provided by the Public Waste Agency of Flanders (OVAM)*

In October 2015, OVAM carried out an inspection at a company where 42 end-of-life vehicles were found. The company did not comply with the Vlarem conditions (including the storage of end-of-life vehicles on liquid-proof floors). The company was ordered to remove all end-of-life vehicles, store vintage cars covered, store or dispose of car and body parts, drums of liquids, waste tyres and waste batteries correctly.

A follow-up inspection in March 2016 established that all end-of-life vehicles had been removed and that all the provisions imposed in the warning had been complied with.

Before



After



Before



After



*Case study and photographs provided by the Public Waste Agency of Flanders (OVAM)*

In August 2016, OVAM supervisors carried out an inspection at a company where 11 end-of-life vehicles were found. The company had moved but had failed to clean up the site. The company did not comply with several of the Vlarem conditions. The company was ordered to remove all end-of-life vehicles, store vintage cars correctly, store car and body parts, drums of liquids and waste tyres correctly.

By the end of October 2016, it had been established that all end-of-life vehicles had been removed and that all the provisions imposed in the warning had been correctly implemented.

Before



After



Before



After



*Case study and photographs provided by the Public Waste Agency of Flanders (OVAM)*

## II. Federal police

### **Successful project-based approach in a multidisciplinary context coordinated from the central “Environmental Crime” department of the Federal Judicial Police (FGP/DJSOC)**

The “Net Brussels” regional agency provided the central “Environmental Crime” department with information on companies that send second-hand cars (wrecks) to Africa with additional cargoes. These companies left Brussels for the Flemish periphery because their illegal activity had been detected and dealt with. This information was processed by the Central Environmental Crime Service of the Federal Judicial Police with administrative data from the regional (OVAM and AMI) and municipal (environmental and town planning) levels and included in a police file. As part of the “Channel Plan” (in which attention is also paid to the illegal economy), the case was discussed with the local police (Vilvoorde-Machelen) and the environmental magistrate of Asse-Halle-Vilvoorde public prosecutor’s office. A multidisciplinary inspection action finally took place on 14 June 2016. At one location, several companies were inspected under the leadership of the environmental magistrate. In addition to the local and federal police, municipal supervisors, members of the National Social Security Office (NSSO) and the Federal Public Service for the Economy and Finance



(FPS Economy and Finance) also took part. All this resulted in criminal convictions with regard to the lack of environment and planning permits, the illegal storage of hazardous and non-hazardous waste, and the presence of vehicle wrecks. In addition, the necessary administrative measures were taken and the mayor of Vilvoorde decided to seal the site.

This successful multidisciplinary intervention in Vilvoorde prompted the Dilbeek police district to act in a similar way. All coordination and support services were present, and an intervention at one location where nine companies were “illegally” active (end-of-life vehicles and additional cargo, processing of textile waste and waste in general) again resulted in an effective and efficient settlement through a criminal investigation and adequate administrative measures.



*Cases and photographs provided by the Central Environmental Crime Department of the Federal Judicial Police*

### III. VLM

Since 2014, field checks on fertilisation practices by the Enforcement Department of the Mestbank (Manure Bank) have been used more intensively in areas where the threshold of 50 mg of nitrate per litre is still being exceeded. The field inspections are called “VODKA action”, which stands (in Dutch) for Responsible Handling of Livestock Manure, Chemical Fertiliser and Other Fertilisers. This checks that there is no over-fertilisation, that the manure is used with low emissions, that the spreading regulations and the distance rules to the watercourse are respected, that no manure is applied to marshy or frozen soil, and that the storage on the headland is done correctly. In addition, in the catchment areas of a selection of MAP measurement points where the threshold of 50 mg of nitrate per litre is still being exceeded, environmental inspections are carried out on farms to address the risks of nutrient losses from manure storage.

Below are five examples of clean-ups of manure stores and one example of adjustments made to the storage of vegetable residues. Through the findings and the action of VLM, the necessary clean-up operations and investments were carried out so that nutrient losses to surface water were avoided.

*Cases and photographs supplied by the Flemish Land Agency*

Before



After



Before



After



Before



After



Before



After



Before



After



Before



After



Before



After



## 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 benefits<sup>30</sup>. To this end, a distinction was made between environmental offences and environmental infringements. The latter are more non-serious breaches which do not involve any impact 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 Act<sup>31</sup>. No criminal sanctions can be applied in relation to such environmental infringements, 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 LNE-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 LNE-AMMC with an alternative administrative fine. The decision of the public prosecutor whether or not to prosecute the case is made on the basis of the 'Sorting Memorandum'. The objective of the Sorting Memorandum of the Public Prosecutor's Office is to determine, on the basis of, among other things, social relevance, a number of technical-legal, legal-economic, criminological and practical considerations, which cases will be dealt with under criminal law by the public prosecutors themselves and which cases will be submitted to LNE-AMMC for administrative fines, so that every official report is properly dealt with.

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 LNE-AMMC. The LNE-AMMC can impose an exclusive fine, possibly accompanied by a deprivation of benefits. After receiving the identification report, the LNE-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.

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. Before the expiration of this period and after a prior reminder from the person who reported the offence, this period can be extended once by another period of maximum 180 days, provided reasons are stated. The LNE-AMMC is informed of this extension. Both a decision to subject an environmental offence to criminal

---

<sup>30</sup> 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 net financial benefit obtained from the environmental infringement or the environmental offence (as defined in the VHRM glossary).

<sup>31</sup> In the future the criterion 'administrative obligation' will no longer apply in view of the further decriminalisation of certain breaches of environmental law (adaptation of the Environmental Enforcement Act in 2013).

proceedings and a public prosecutor's failure to communicate his or her decision to the LNE-AMMC in due time rule out the imposition of an administrative fine.

If the public prosecutor has informed the LNE-AMMC in due time of his or her decision not to prosecute the environmental offence, the LNE-AMMC must start the procedure for a possible imposition of an alternative administrative fine. Upon receipt of this decision, LNE-AMMC is to notify the suspected offender within 30 days of its intention to impose an alternative fine (which may or may not include the expropriation of unlawful material benefits). LNE-AMMC then has 180 days to decide whether or not to impose an alternative administrative fine (which may or may not include the expropriation of unlawful material benefits). 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 LNE-AMMC relating to both alternative and exclusive administrative fines.

In 2012, the administrative transaction was introduced with the Decree of 20 April 2012 containing various provisions relating to the environment and nature<sup>32</sup>, the procedure for which entered into force on 23 August 2012. The modalities of the administrative transaction were worked out in detail in a Government of Flanders Order of 6 July 2012<sup>33</sup>. Since 2012, LNE-AMMC has been able to put forward a proposal for a sum to be paid in certain "simpler cases" in the area of environmental offences or environmental infringements with a limited impact on the natural environment. However, the requirement in all of these cases is that the offences committed by the suspect need to be irrefutably confirmed. If the offender fails to pay this type of "settlement proposal" on time, the regular fining procedure is then resumed. This instrument is mainly aimed at minor environmental and nuisance offences, which have a limited impact on the natural environment, but are socially offensive. For environmental offences, the administrative transaction may not exceed 2,000 euros, whereas for environmental infringements the transaction may not exceed 500 euros.

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 fines can be imposed, as well as the amounts of the fines. In case of serious breaches, 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 2016, we will not only look at the activities of the public prosecutor's offices, but also at those of the LNE-AMMC, the Environmental Enforcement Court and the Flemish Land Agency.

---

<sup>32</sup> Publication Belgian Official Journal: 22 May 2012.

<sup>33</sup> Government of Flanders 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. In the present environmental enforcement report it is therefore important to evaluate the criminal sanctions policy pursued in 2016. That is why the Flemish High Enforcement Council for Spatial Planning and Environment 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.

As with the other enforcement bodies, the public prosecutors were also asked how many FTEs were used for environmental enforcement tasks in 2016. The table below gives the number of FTEs for environmental public prosecutors.

Environmental public prosecutors	FTEs
Antwerp	2
Limburg	0.8
Halle-Vilvoorde	0.2
Leuven	0.5
East Flanders	1.7
West Flanders	0.9
TOTAL	6.1

Table 34: Number of FTEs for environmental public prosecutors

- ▶ With regard to the table above, the public prosecutors point out that each public prosecutor who is responsible for dealing with criminal cases relating to the environment and spatial planning, is also responsible for several other tasks in the context of the schedule. This broad(er) set of tasks, together with the

absence of a specifically developed workload measurement, explains why it is not possible to calculate the number of FTEs for the environment and spatial planning with 100% accuracy. The reported FTE figures are therefore estimates.

Before these figures can be discussed, some other notes should also be made first in the present environmental enforcement report with respect to the data.

The figures come from a central database of the 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<sup>34</sup> processed by police prosecutors.

The VHRM requested figures on the level of environmental enforcement in Flanders. The figures received therefore only relate to cases handled by the Flemish public prosecutors. Data are now presented on the basis of the new judicial landscape, but in order to maintain comparability with data from previous years, data are presented at both district and departmental level where appropriate.

The figures provided are based on the latest data extraction of 10 January 2017. All data relating to the state of progress of a case are therefore limited to the state on that extraction date. It should be pointed out that it is still too early to draw conclusions based on the data extracted on 10 January 2017 about the different ways in which the cases registered in 2016 were processed. The figures are merely indicative for both years, since the state of progress of these cases could still

<sup>34</sup> 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 breaches of forestry legislation or fishing legislation, even if the breaches are considered to be major offences). Hence, these environmental cases are not all included in the figures

have changed after the extraction date. Nevertheless, the attempt is made to identify some trends.

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. In any event, a main indictment code should be assigned to the case as soon as it is entered into the computerised system of public prosecutors. However, this registration of additional indictment codes does not take place everywhere; some public prosecutors do not register them.

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)<sup>35</sup>.

- ▶ 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

---

<sup>35</sup> It should be noted that in the final selection, cases are included that, as breach, do not in the strict sense fall under the Environment Enforcement Act. These concern the import and export of waste, for example, regional material, while the transit thereof only became regional material on 1 July 2014 (thanks to the sixth state reform) and was a federal competence until 30 June 2014. Since within the cases registered with code "64L - Import and transit of waste (Law of 12 May 2011)" no distinction can be made between those relating to import and export on the one hand and those relating to transit on the other, all cases registered with this code are charged. In addition, it should be noted that cases registered under code "63N" concern a regional competence except import, export and transit of exotic plants and animals, which is a federal competence. For clarification of the above data, it should be stated that the code 63N (Convention of Washington - protected animal species, plants and ivory) does not, strictly speaking fall under environment management since environmental law is defined in the Environment Enforcement Act as the totality of legal rules directed at the management of the environment and nature on the one hand and nature conservation and the promotion of biological and landscape diversity on the

- ▶ Waste<sup>36</sup> :
  - 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):
  - 64A - Air and water pollution
  - 64B - Carbon monoxide
  - 64C - Noise nuisance, decibels in urban environment (Royal Decree of 24 February 1977)
  - 64G - Illegal water abstraction
  - 64M - Surface water pollution
  - 64N - Groundwater pollution

When more than one of the selected codes occurs in the same case, this case is presented in the data on the basis of the main charge of those selected.

Cases that have not yet reached the public prosecutor's office in their entirety at the time of data extraction will

other, more specifically the regulations stated in article 16.1.1, first paragraph sections 2°, 3°, 4°, 7°, 14°, 15° and 16°, of the Environment Enforcement Act. Finally it should be stated that in addition to the matters concerning the manure decree (code 63O), the cases with code "63I - Fertilisers" were selected, the latter because there is a genuine chance that a section of the cases registered by the public prosecutor's administration with code 63I are, in practice, breaches that are monitored regionally. Although the conscious choice to make a broad selection can have resulted in a number of cases being incorrectly counted in this contribution to the environmental enforcement report, it is also true that there is no specific charge code for other breaches that can involve both federal and regional material (e.g. breaches relating to certain product standards).

<sup>36</sup> There are no separate charge codes (number and letter) for breaches relating to the Flemish Parliament Act on Soils, which is why these are classified under the charge code 'waste'.



not be taken into account. This specifically concerns the 'simplified official report on listing'<sup>37</sup> and the 'autonomous police investigations still in progress'. In most public prosecutor's offices, the simplified official reports drawn up by the police forces are not recorded in the system. Therefore, they were not taken into account in the figures below (as opposed to data from ANG and presented in 2.2.1). However, if the official report was requested by the public prosecutor's office, this will be taken into account.

We must remember that, in general, some environmental offences transmitted to the public prosecutor's offices in a normal official report do not appear in the statistics because, for example, there is another primary offence in the case (e.g. theft), as a result of which the environmental aspect is not recorded in the system, or because new offences are often grouped into initial official reports if an investigation has been started (e.g. one initial report with the reporting of five new offences of illegal dumping), and as a result the phenomenon of environmental crime is underestimated. It should therefore be stressed that the figures only reflect the number of cases of environmental crime according to what is recorded in the public prosecutors' system, and therefore are not an indication of the extent of the criminal phenomenon. The introduction of municipal administrative sanctions for minor nuisances also has an impact on the influx of environmental cases into the public prosecutor's offices.

In addition, the request was made, similar to the request to the supervisory agencies, to make a distinction between priority<sup>38</sup> official reports and non-priority official reports in order to be able to make an analysis of the operation of the 'Priority memorandum of prosecution policy under environmental law in the Flemish Region 2013'. It is, however, stated that answering this question presupposed the creation of

specific codes, which in turn requires technical adjustments and new registration guidelines. The database of the Board of Procurators General does not as yet allow a distinction to be made within the selected cases between priority and non-priority files. It was, however, stated that a solution was being sought in this matter.

Reference can also be made in this section to the various partnerships between public prosecutor's offices. Within the jurisdiction of Ghent, a partnership has existed between the former public prosecutors (currently departments) of Ypres and Kortrijk in West Flanders since 1 January 2008. Cases relating to specialised matters are handled by one of the two departments/public prosecutor's offices. This is relevant for this analysis given that the former public prosecutor of Kortrijk is responsible for dealing with all cases received in Ypres relating to the indictment codes 63A, 63N, 63O, 64A, 64D, 64F, 64G, 64H, 64I, 64J, 64L, 64M, and 64N. Since 1 November 2010, this partnership has also been extended to the entire province of West Flanders, resulting in all cases of the former districts of Ypres, Bruges and Veurne with the aforementioned indictment codes, being handled by the former public prosecutor's office (current department) of Kortrijk. The so-called quality of life offences (indictment codes 63B, 63K, 63M, 64B, 64C, and 64E) are handled exclusively by (the department of) Kortrijk since 1 June 2015. When reading the figures below, bear in mind that some of the decisions in West Flanders were taken by magistrates attached to the former public prosecutor's office in Kortrijk (now the Kortrijk department). As from 1 December 2011, a similar partnership was started up in East Flanders, whereby the specialised magistrates attached to the (former) public prosecutor's office in Ghent are responsible for dealing with these cases. When reading the figures below, bear in mind that some of the decisions in the East Flanders departments/public prosecutor's office were taken by

---

<sup>37</sup> A simplified official report implies that the most important data about certain non-serious breaches 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.

<sup>38</sup> Priority cases refer to the official reports intended for establishing offences and included in the protocol 'Priority Memorandum on the prosecution policy for environmental law in the Flemish Region 2013'.

magistrates attached to the current Ghent department of the public prosecutor's office in East Flanders. In the jurisdiction of Antwerp, a partnership between the former public prosecutors (currently departments) of Mechelen and Turnhout has been operational since 1 January 2011 for, among other things, the processing of environmental cases. All 'environmental hygiene' cases (indictment codes 64C, 64E, 64F, 64H, 64I, 64J, 64M, 64N and 63O) on the one hand and 'fauna and flora' cases (indictment codes 63A, 63B, 63C, 63M<sup>39</sup> and 63N) on the other that have arrived in Mechelen since that date are submitted to the specialised magistrates attached to the former public prosecutor's office (current department) of Turnhout for handling.

The unit of measure in the tables is always equal to one case. Each case corresponds to one unique reference number. A case may, of course, concern several suspects and/or several crimes. A relatively large number of cases are referred to another public prosecutor for territorial reasons. Since an indication is given of the number of cases entering the public prosecutor's offices and a referral case is often received, within the reference period, by both the original public prosecutor's office as well as the destination office, both the original reference number and the reference number of the referral case are included in the figures. The public prosecutor's statistics do not relate to crime or fact statistics and should therefore not be interpreted in this way.

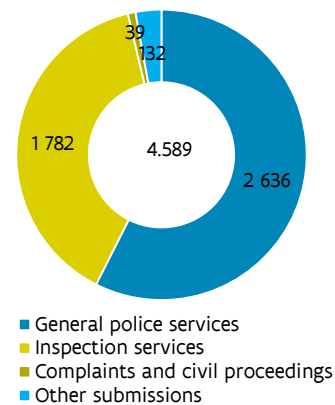
In the first instance, an overview will be given of the influx of cases into the public prosecutor's offices in 2016. This will be done on the basis of the selected indictment codes and, if possible, by the reporting authority. Then we consider the latest progress (i.e. 10 January 2017) of the cases received by the public prosecutors in 2016, after which the reasons for the dismissal of environmental enforcement cases will be discussed in more detail. We mention once again that, because the reference date for the data is 10 January 2017, it is important that data regarding case progress is interpreted with care. The data

<sup>39</sup> The cases with indictment code 63C, animal protection, are not included in the figures below.

and percentages in this respect only refer to the situation on 10 January 2017 and do not represent the final status of a case. Consequently, only trends can be established and certainly no definitive conclusions can be drawn yet.

#### 4.1.1 Reception

Graph 12 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 2016, per reporting authority, and subdivided into four different categories, namely general police, inspection services, complaints and civil proceedings, and other submissions.<sup>40</sup>



Graph 12: Number of environmental enforcement cases that were recorded by the criminal divisions of the public prosecutor's offices in the Flemish Region in 2016, per reporting authority - Source: database of the Board of Procurators General

Overall, the public prosecutor's offices received 4,589 environmental cases in 2016, of which 57% or 2,636 cases originated from the general police and 39% or 1,782 cases from the inspection services. The category 'general police' comprises both local and federal police forces. The inspection services, on the other hand, are administrative services with a limited competence to report breaches, such as the regional environment administrations (supervisors). A small proportion of the total number of cases received, namely almost 3% or 132 cases, were 'other cases'. These are consignments from other public prosecutors (available at their disposal) and

<sup>40</sup> Cases recorded by the public prosecutors of the police courts are not included in the provided figures.

courts, also from other sections of the same public prosecutor's office, from foreign public prosecutors/courts and from the courts of the same judicial district, which 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 three categories. Dossiers received from municipal supervisors and supervisors of intermunicipal associations also come under this category. In addition, 39 cases or 0.85% pertained to complaints and civil proceedings. It concerns complaints from private persons, as well as complaints from bailiffs or from private organisations and civil plaintiffs.

More than half of the dossiers which the public prosecutor's offices received in 2016 were drawn up by the general police. In Chapter 2 it was already indicated that the general police drew up 12,375 official reports with regard to the environment. Since this number includes the initial as well as the simplified official reports this could explain the difference with the number of dossiers which the public prosecutor's offices received in 2016. It should be remarked that no distinction can be made here between official reports drawn up by the local police with general identification authority on the one hand and official reports drawn up by local police supervisors on the other.

On the basis of the data from the Environmental Enforcement Report 2015 and the Environmental Enforcement Report 2014 a comparison can be made in table 34 between the number of environmental enforcement cases that were recorded by the criminal divisions of the public prosecutor's offices in the Flemish Region by reporting authority in 2016, 2015 and 2014.

	2016		2015		2014	
	n	%	n	%	n	%
General police services	2,636	57.44	3,014	60.04	3,187	63
Inspection services	1,782	38.83	1,851	36.87	1,678	33
Complaints and civil proceedings	39	0.85	40	0.8	45	1
Other submissions	132	2.88	115	2.29	138	3
<b>TOTAL</b>	<b>4,589</b>	<b>100</b>	<b>5,020</b>	<b>100</b>	<b>5,048</b>	<b>100</b>

Table 35: Number of environmental enforcement cases recorded by the criminal divisions of the public prosecutor's offices in the Flemish Region per reporting authority in 2016, 2015 and 2014 *Source: database of the Board of Procurators General*

The table above shows that, in 2015 and 2014, the number of cases recorded by the criminal divisions of the public prosecutor's offices in the Flemish Region was more or less stable, but that the number of cases fell by just under 10% in 2016. This decrease for 2016 can mainly be explained by the decrease in the number of cases drawn up by the general police, not only in absolute numbers, but also in the proportion of these cases in the total number of recorded cases. The proportion of cases referred by the Inspectorate decreased slightly in 2016 compared with 2015, but remained above the level of 2014.

In 2003, a technical working group was set up within the Committee on Prosecution Policy<sup>41</sup>, with the aim of improving insight into cases submitted to the public prosecutor's offices by the environment services of the Flemish Region. The only code that was available then at the level of the environment services of the Flemish Region was M2. 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. The following codes were created:

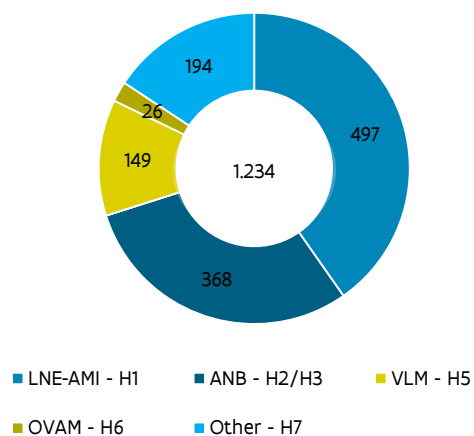
- ▶ H1 : Environmental Inspectorate Division - LNE-AMI
- ▶ H2: ANB<sup>42</sup>
- ▶ H4 : Water – VMM
- ▶ H5 : Manure bank – VLM
- ▶ H6 : OVAM
- ▶ H7 : Other<sup>43</sup>

The use of these specific reference numbers made it possible to draw up the graph 13 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 2016, 2015 and 2014 per Flemish environmental enforcement service. This shows how many cases each Flemish environment service submitted as reporting authority.

<sup>41</sup> The Committee on Prosecution Policy is the predecessor of the Flemish High Enforcement Council for Spatial Planning and Environment 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 Enforcement Council for Spatial Planning and Environment.

<sup>42</sup> Until 2008, the codes H2/H3 were used by the legal predecessors of ANB (department for Forests and Green, and Nature respectively). Since then, ANB has only used the code H2.

<sup>43</sup> 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. *[De administratie Waterwegen en Zeewezen is een term van voor Beter Bestuurlijk Beleid. Momenteel zijn dit de volgende agentschappen: Waterwegen en Zeekanaal, de Scheepvaart, Maritieme Dienstverlening en Kust.]*



Graph 13: Number of environmental enforcement cases submitted by the Flemish environment services as recorded by the criminal divisions of the public prosecutor's offices in the Flemish Region in 2016 - Source: database of the Board of Procurators General

In 2016, a total of 1,234 cases were recorded by the criminal divisions of the public prosecutor's offices in the Flemish Region which originated from the Flemish inspection services that used the above codes. The majority of these cases, that is 40%, come from the LNE-AMI. The ANB also represents a substantial share of the total number of cases from the Flemish inspection services, namely 30%. The Public Waste Agency of Flanders (OVAM) and Flemish Land Agency (VLM) account respectively for a share of 2% and 12%.

In comparison to the chapter 'Evaluation of the instrument 'official report'' a few differences can be observed between the number of indicated official reports drawn up by the enforcement actors and the number of reports received by the criminal divisions of the public prosecutor's offices in the Flemish Region. The ANB, for instance, indicated that, in 2016, 627 initial official reports were drawn up, although the public prosecutor's offices only received 368 in 2016. This can be explained by the fact that this agency also draws up

official reports that are dealt with by police prosecutors. A higher number of drawn up official reports (respectively 499 and 150) was also given by LNE-AMI and VLM than was received by the public prosecutor's offices (respectively 497 and 149) in 2016. The other regional supervisory bodies state that together they have drawn up a total of 259 official reports in 2016, while the public prosecutor's offices have received only 194 files under the heading "other". The figures from the public prosecutor's offices are probably an underestimation, as not all Flemish environment administrations seem to be familiar with the possibility of using a specific code. As a result, the process by which some cases were included in the figures above cannot be identified. For this reason, the VHRM once again recommends that the various environmental administrations use these codes consistently to ensure correct data collection and reporting. The difference in figures between LNE-AMI, VLM and OVAM (and supervisory authorities without a specific code) and the public prosecutors may also be due to the fact that the public prosecutor does not record the initial official report as a new case. The code H7 is not or hardly ever used because it is unclear what is meant by this and there is no certainty that an official report register does exist. They are referred to as 'other'.

On the basis of the data from the Environmental Enforcement Report 2015 and the Environmental Enforcement Report 2014 table 35 makes a comparison of the number of environmental enforcement cases originating from the Flemish environment services as recorded by the criminal divisions of the public prosecutor's offices in the Flemish Region in 2016, 2015 and in 2014.

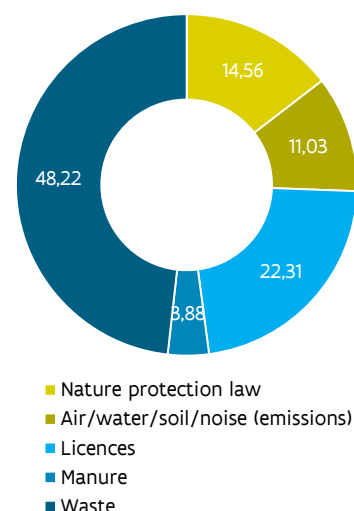
	2016		2015		2014	
	n	%	n	%	n	%
<b>AMI - H1</b>	497	40.28	527	38.22	470	37.63
<b>ANB - H2/H3</b>	368	29.82	552	40.03	410	32.38
<b>VMM - H4</b>	-	-	1	0.07	/	/
<b>VLM - H5</b>	149	12.07	179	12.98	196	15.69
<b>OVAM - H6</b>	26	2.11	37	2.68	61	4.88
<b>Other - H7</b>	194	15.72	83	6.02	112	8.97
<b>TOTAL</b>	1,234	100	1,379	100	1,249	100.00

Table 36: Number of environmental enforcement cases submitted by the Flemish environment services as recorded by the criminal divisions of the public prosecutor's offices in the Flemish Region in 2016, 2015 and 2014- Source: *database of the Board of Procurators General*

The number of cases received by the public prosecutors from the various Flemish environmental services in 2016 decreased compared with 2015 to just below the level of 2014. Compared with 2015, the number of cases fell by 11% in 2016. This decrease in 2016 can mainly be attributed to the decrease in the number of cases originating from ANB.

Earlier we have already provided an overview of the different charge codes that are used to record environmental enforcement cases. This allows us for 2016 as well to present an overview in the graphs and tables below of the 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 in 2016.

Graph 14 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 law, compared to the total number of cases recorded with one of these charge codes in 2016, namely 4,589 dossiers.



Graph 14: Percentage of environmental enforcement cases recorded by the criminal divisions of the public prosecutor's offices in the Flemish Region, per main charge, for cases in 2016 - Source: *database of the Board of Procurators General*

More than 48% of the total number of environmental enforcement cases recorded by the criminal divisions of the public prosecutor's offices in the Flemish Region had a main charge code within the theme of waste. It concerned 2,213 dossiers. Cases connected to emissions and environmental law represented around 11% and 15% respectively of the total number of cases in 2016, i.e. 506 and 668 cases respectively. In addition, 1,024 cases, or more than 22%, were related to permits, and 178 cases, representing just less than 4% of the total number of Environmental Enforcement cases, related to manure in 2016.

Table 37 not only makes a further subdivision of the main charge codes of 'nature protection law', 'emissions', 'licences', 'manure' and 'waste', but also compares

between 2016, 2015 and 2014 on the basis of the data from the Environmental Enforcement Report 2014 and the Environmental Enforcement Report 2015.

		2016		2015	2014
			%	n	n
Nature protection law	63A – Hunting	88	1.92	118	141
	63B – Fishing	189	4.12	296	178
	63M – Flemish Parliament Act on Forests	125	2.72	97	112
	63N – Washington Convention – protected animal species, plants and ivory	94	2.05	98	105
	64J – Flemish Parliament Act on Nature conservation and the natural environment	172	3.75	250	203
	Total nature protection law	668	14.56	<b>859</b>	<b>739</b>
Air/water/soil/noise (emissions)	64A – Air and water pollution	148	3.23	194	160
	64B – Carbon monoxide	4	0.09	4	3
	64C – Noise nuisance, decibels in urban environment (Royal Decree of 24 February 1977)	138	3.01	177	193
	64G – Illegal water abstraction	1	0.02	-	-
	64M – Surface water pollution	152	3.31	168	216
	64N – Groundwater pollution	63	1.37	68	104
	Total air/water/soil/noise	506	11.03	<b>611</b>	<b>676</b>
Licences	64D - Commodo – incommodo (Environmental licence)	219	4.77	138	96
	64H – Operation of an unlicensed plant	138	3.01	222	290
	64I – Non-compliance with Vlare legislation	667	14.53	712	613
	Total licences	1,024	22.31	<b>1,072</b>	<b>999</b>
Manure	63I – Manure	42	0.92	49	67
	63O – Flemish Parliament Act on Manure	136	2.96	165	165
	Total manure	178	3.88	<b>214</b>	<b>232</b>
Waste	64E – Illegal dumping	1,621	35.32	1,740	1,779
	64F – Waste management	534	11.64	466	529
	64L – Import and transit of waste	58	1.26	58	94
	Total waste	2,213	48.22	<b>2,264</b>	<b>2,402</b>
Total		4,589	100	5,020	5,048

Table 37: Number of environmental enforcement cases recorded by the criminal divisions of the public prosecutor's offices in the Flemish Region, per main charge code, for cases in 2016, 2015 and 2014 - Source: database of the Board of Procurators General

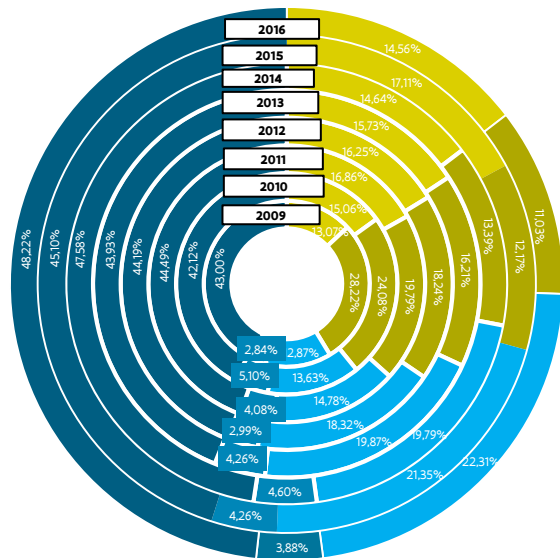
As already mentioned, the largest share (more than 48%) of Environmental Enforcement cases recorded by the criminal divisions of the public prosecutors of the Flemish Region concerned waste in 2016, as in previous years. The table above shows that, within the theme of waste, most cases were recorded under indictment code 64E. These 1,621 cases all related to illegal dumping. These cases concerning illegal dumping not only form the largest part within the theme of waste (73%), but also within the total number of Environmental Enforcement cases recorded by the criminal divisions of the public prosecutors in 2016. 35% of all cases in 2016 related to illegal dumping. This trend was also visible in the Environmental Enforcement Report 2015 and the Environmental Enforcement Report 2014, when approximately 35% of the total number of cases also related to illegal dumping.

Both in 2014, 2015 and in 2016 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 5%, 4% and 5% respectively. 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.

Table 37 shows a decline of 22% in the absolute number of cases relating to noise standards in an urban environment (indictment code 64C) in 2016 compared to 2015. This downward trend has continued since 2013. The percentage of these cases compared with the total number of recorded cases has also declined since 2013. In 2013, 6% of the total number of recorded cases related to noise standards in urban areas. This percentage decreased to 4% in 2014, to 3.5% in 2015 and to 3% in 2016. This decline could possibly be explained by the so-called GAS rules in municipalities and cities which often include noise nuisance, by the amended VLAREM noise standard, or by enforcement problems with the new noise regulations.

Apart from a comparison of the absolute figures it is also possible to make a comparison in terms of percentage of the number of environmental enforcement cases recorded by the criminal divisions of the public prosecutor's offices in the Flemish Region, per main charge codes, in 2009, 2010, 2011, 2012, 2013, 2014 and 2015. Graph 15 gives an overview of this.





- Nature protection law
- Air/water/soil/noise (emissions)
- Licences
- Manure
- Waste

Graph 15: Percentage of the number of environmental enforcement cases recorded by charge codes - *Source: database of the Board of Procurators General - statistical analysts*

Graph 15 indicates that since the implementation of the Environment Enforcement Act in 2009, more than 40% of the total number of 'Environmental enforcement' cases were each time registered by the criminal departments of the public prosecutor's offices of the Flemish Region related to waste. A trend that can be graphically presented is the decrease in the percentage share of cases regarding air/water/soil/noise (emissions) and the growing percentage share of cases relating to licences.

#### 4.1.2 State of progress

In addition to the influx of Environmental Enforcement cases, it was once again possible to obtain figures for this environmental enforcement report on the state of

progress of Environmental Enforcement cases for the study period. However, it should be recalled that the data extraction dates from 10 January 2017. This means that it is not yet possible to draw any firm conclusions as to the handling of cases. In addition, it should be noted that in most cases the full 360-day period is used to seek general regularisation. As a result, very few cases are subpoenaed within the year, so the figures below give a somewhat distorted picture. 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 2017.

#### WANTED PERPETRATOR

This heading includes cases in which a suspect was reported as wanted on 10 January 2017. As long as the suspect is not found, this progress state will continue to apply.

#### 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.

#### CASE REFERRED

This category comprises cases which on 10 January 2017 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.

#### PRAETORIAN PROBATION

This heading covers cases which, on 10 January 2017, have not (yet) been the subject of criminal proceedings, provided that certain measures imposed by the public prosecutor have been met.

#### MUNICIPAL ADMINISTRATIVE SANCTION

This heading covers cases that were transferred to a public administration on 10 January 2017 with a view to a possible municipal administrative sanction.

#### NON-MUNICIPAL ADMINISTRATIVE SANCTION

This heading covers cases that were transferred to a public administration<sup>44</sup> on 10 January 2017 for a possible non-municipal administrative sanction.

#### 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 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 the cases that are subject to a judicial investigation and have not been confirmed for the council for the regulation of the dispensation of justice.

#### 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.

#### UNKNOWN/ERROR

This heading covers cases where it has not been possible to identify the progress state. These are often merged cases for which the registrations do not allow the ascertaining of the progress state of the case to which they were merged.

As a result of the entry into force of circular COL 16/2014, decisions that were previously considered devoid of purpose are now included below as a separate final decision in the figures. This concerns the (new) progress states 'wanted perpetrator', 'praetorian probation', and '(municipal) administrative sanction'.

The previous environmental enforcement reports also reported on the progress state of the 'Court in

---

<sup>44</sup> In the context of the Environmental Enforcement Decree, these are LNE-AMMC and VLM-Mestbank (Flemish Land Agency Manure Bank).

chambers'. This section contains cases in the phase of legal proceedings up to the moment when findings may be brought before the criminal court. Cases which are no longer prosecuted have maintained this progress state. From 2015, this progress state was no longer reflected in the figures provided by the public prosecutors.

Table 38 provides a picture of the last state of progress on 10 January 2017 for the environmental enforcement cases recorded with the criminal divisions of the public prosecutor's offices of the Flemish Region in 2016. Both the total number of cases in Flanders and the number of cases per public prosecutor's office are given. In addition, the percentage share of the different states of progress with respect to the total number of environmental enforcement cases is given, both for 2016, 2015 and 2014, in order to make a comparison possible.

When reading table 38, the existing public prosecutor partnerships should be taken into account (see 4.1).

Table 38: Number of environmental enforcement cases recorded by the criminal divisions of the public prosecutor's offices in the Flemish Region in 2016, possibly through addition to a mother case, per judicial district

	Preliminary investigation		Wanted perpetrator		Without further action		Case referral		praetorian probation		municipal administrative sanction		non-municipal administrative sanction		administrative sanction (not specified)		Amicable settlement		Mediation in criminal cases		Investigation		Chambers		Writ of summons and further proceedings		Unknown/error		TOTAL
	n	%	n	%	n	%	n	%	n	%	n	%	n	%	n	%	n	%	n	%	n	%	n	%	n	%	n	%	n
ANTWERP PUBLIC PROSECUTOR'S OFFICE	375	38.78	7	0.72	213	22.03	19	1.96	19	1.96	2	0.21	257	26.58	.	.	32	3.31	.	.	5	0.52	1	0.1	36	3.72	1	0.1	967
ANTWERP	198	38.15	2	0.39	91	17.53	4	0.77	6	1.16	1	0.19	150	28.9	.	.	29	5.59	.	.	4	0.77	.	.	34	6.55	.	.	519
MECHELEN	70	43.21	3	1.85	43	26.54	4	2.47	5	3.09	1	0.62	30	18.52	.	.	1	0.62	.	.	1	0.62	1	0.62	2	1.23	1	0.62	162
TURNHOUT	107	37.41	2	0.7	79	27.62	11	3.85	8	2.8	.	.	77	26.92	.	.	2	0.7	.	.	.	.	.	.	.	.	.	.	286
LIMBURG PUBLIC PROSECUTOR'S OFFICE	81	13.85	1	0.17	159	27.18	22	3.76	22	3.76	10	1.71	238	40.68	.	.	29	4.96	4	0.68	.	.	.	.	19	3.25	.	.	585
HASSELT	36	14.06	1	0.39	91	35.55	8	3.13	16	6.25	.	.	83	32.42	.	.	11	4.3	2	0.78	.	.	.	.	8	3.13	.	.	256
TONGEREN	45	13.68	.	.	68	20.67	14	4.26	6	1.82	10	3.04	155	47.11	.	.	18	5.47	2	0.61	.	.	.	.	11	3.34	.	.	329
HALLE-VILVOORDE PUBLIC PROSECUTOR'S OFFICE	116	30.13	1	0.26	95	24.68	11	2.86	1	0.26	1	0.26	119	30.91	.	.	26	6.75	.	.	2	0.52	.	.	13	3.38	.	.	385
LEUVEN PUBLIC PROSECUTOR'S OFFICE	43	18.61	4	1.73	53	22.94	12	5.19	.	.	.	.	74	32.03	2	0.87	29	12.55	.	.	1	0.43	.	.	13	5.63	.	.	231
EAST FLANDER PUBLIC PROSECUTOR'S OFFICE	356	25.05	45	3.17	373	26.25	29	2.04	3	0.21	.	.	562	39.55	.	.	3	0.21	.	.	3	0.21	.	.	47	3.31	.	.	1,421
GHENT	154	24.21	19	2.99	174	27.36	11	1.73	1	0.16	.	.	232	36.48	.	.	1	0.16	.	.	1	0.16	.	.	43	6.76	.	.	636
DENDERMONDE	149	26.05	23	4.02	131	22.9	15	2.62	1	0.17	.	.	248	43.36	.	.	1	0.17	.	.	1	0.17	.	.	3	0.52	.	.	572
OUDENAARDE	53	24.88	3	1.41	68	31.92	3	1.41	1	0.47	.	.	82	38.5	.	.	1	0.47	.	.	1	0.47	.	.	1	0.47	.	.	213
WEST FLANDERS PUBLIC PROSECUTOR'S OFFICE	290	29	5	0.5	196	19.6	21	2.1	1	0.1	1	0.1	470	47	.	.	6	0.6	.	.	3	0.3	.	.	7	0.7	.	.	1,000
BRUGES	145	34.04	1	0.23	61	14.32	4	0.94	.	.	.	.	205	48.12	.	.	3	0.7	.	.	2	0.47	.	.	5	1.17	.	.	426
KORTRIJK	91	26.45	4	1.16	84	24.42	15	4.36	1	0.29	1	0.29	144	41.86	.	.	2	0.58	.	.	1	0.29	.	.	1	0.29	.	.	344
IEPER	33	26.19	.	.	26	20.63	2	1.59	.	.	.	.	65	51.59	.	.	.	.	.	.	.	.	.	.	.	.	.	.	126
VEURNE	21	20.19	.	.	25	24.04	.	.	.	.	.	.	56	53.85	.	.	1	0.96	.	.	.	.	.	.	1	0.96	.	.	104
Flanders 2016	1.261	27.48	63	1.37	1.089	23.73	114	2.48	46	1	14	0.31	1,720	37.48	2	0.04	125	2.72	4	0.09	14	0.31	1	0.02	135	2.94	1	0.02	4,589
Flanders 2015	1.442	28.73	40	0.80	1.371	27.31	215	4.28	28	0.56	39	0.78	1,541	30.70			205	4.08	5	0.1	10	0.2			123	2.45	1	0.02	5,020
Flanders 2014	1.375	27.24			2.785	55.17	409	8.1									255	5.05	27	0.53	25	0.5	11	0.22	106	2.1	55	1.09	5,048

The data in Table 38 shows that more than 27% of the total number of Environmental Enforcement cases recorded by the criminal public prosecutors of the Flemish Region were still in the preliminary investigation stage on 10 January 2017. This is comparable with 2015 and 2014.

With regard to the percentage share of the number of cases that had already been dismissed without further action on the extraction date (24%), a slight decrease can be observed compared with 2015. In 2014, 55% of the total number of Environmental Enforcement cases were dismissed without further action on the extraction date. In the reports before 2015, 'praetorian probation', 'municipal administrative sanction' and 'non-municipal administrative sanction' were part of the 'no further action' state of progress, while from the 2015 reporting onwards these types of decisions are presented as separate progress states. If these cases were to be counted together and added to the cases that were dismissed without further action (classification in 2015), a total of 3,046 cases would have been dismissed without further action in 2016 on the extraction date. This is approximately equal to the number in 2015, but compared with 2014 and 2013 is both an increase in the absolute numbers and a percentage increase in relation to the total number of registered cases. More than 66% of cases in 2016 had in fact already been dismissed without further action by the extraction date.<sup>45</sup> The next section, 'Motives to dismiss', will go into more detail about the reasons for these 'no further actions'.

The number of cases made available on the extraction date has decreased sharply compared with 2015 and 2014. These are cases that were referred to another public prosecutor's office or another (judicial) body. In certain departments, this progress state was also assigned to cases that were submitted to municipalities or LNE-AMMC with the intention of imposing an administrative sanction.

There was also a slight decline in amicable settlements in 2016 compared with 2015 and 2014. The number of cases in which an amicable settlement had already been proposed on the extraction date was 2.7% of the total number of Environmental Enforcement cases in 2016, compared with 4 to 5% in previous years.

Both in absolute figures and as a percentage share of the total number of cases, a slight increase can be observed for cases that had already been subpoenaed on the extraction date. On 10 January 2016 this was 123 cases, 2.45% of the total number of Environmental Enforcement cases. On 10 January 2017 there were 135 cases, i.e. 2.94% of the total number of Environmental Enforcement cases. In 2014, 2.1% of the total number of Environmental Enforcement cases had already been subpoenaed on the extraction date.

As already mentioned, 'wanted perpetrator', 'praetorian probation', 'municipal administrative sanction' and 'non-municipal administrative sanction' are, for the first time, separate progress states. Previously, these cases were included in the 'no further action' progress state; they were discussed in detail in section 4.1.3 'Reasons for dismissal'.

One of the reasons why specific reference was made in the environmental enforcement reports to these grounds for dismissal is the fact that public prosecutors have the opportunity to refer cases to the Environmental Enforcement, Environmental Damage and Crisis Management Division of the Environment, Nature and Energy Department (LNE-AMMC) with a view to penalisation by way of an administrative fine. This information is already shown in the table above with the progress state 'non-municipal administrative sanction'. In 2016, 1,720 cases were transferred to the competent public authority with a view to imposing an administrative sanction, which means that no less than 37% of the total number of Environmental Enforcement cases recorded on the extraction date had already been

---

<sup>45</sup> If the categories are added up like the 2014 reporting.

submitted for the imposition of an administrative sanction.

The table below shows these figures since the Environmental Enforcement Decree came into force in 2009. For 2016, in order to ensure the comparability of

data, cases that were in the 'municipal administrative sanction' progress state as well as those in the 'non-municipal administrative sanction' progress state on the date of the extraction are added together. After all, in previous reports these cases were together under 'cases dismissed with a view to imposing an administrative fine'.

	2009	2010	2011	2012	2013	2014	2015	2016
number of cases dismissed with a view to imposing an administrative fine (up to 2014)/with progress state 'non-municipal administrative sanction' and 'municipal administrative sanction' (2015)	299	975	1,536	1,384	1,248	1,128	1,580	1,736
% share of cases dismissed with a view to imposing an administrative fine in relation to the number of recorded cases (up to 2015)/with progress state 'non-municipal administrative sanction', 'municipal administrative sanction' and 'administrative sanction not specified' (2016)	9.89	15.31	25.6	27.56	27	22.34	31.47	37.83

Table 39: Cases dismissed with a view to imposing an administrative fine (up to 2014)/with progress state 'non-municipal administrative sanction' and 'municipal administrative sanction' (2016)/since the Environmental Enforcement Decree came into force

The table above shows that 1,736 cases, or 37.83 % of the total number of recorded Environmental Enforcement cases, had already been submitted to the competent authority on the extraction date for the imposition of an administrative sanction. This includes the municipal administrative sanctions and LNE-AMMC's alternative administrative fines. This is an increase compared to 2015. In 2015, 1,580 cases were dismissed with a view to imposing an administrative fine, i.e. 31.47% of the total number of Environmental Enforcement cases recorded by public prosecutors in 2015<sup>46</sup>.

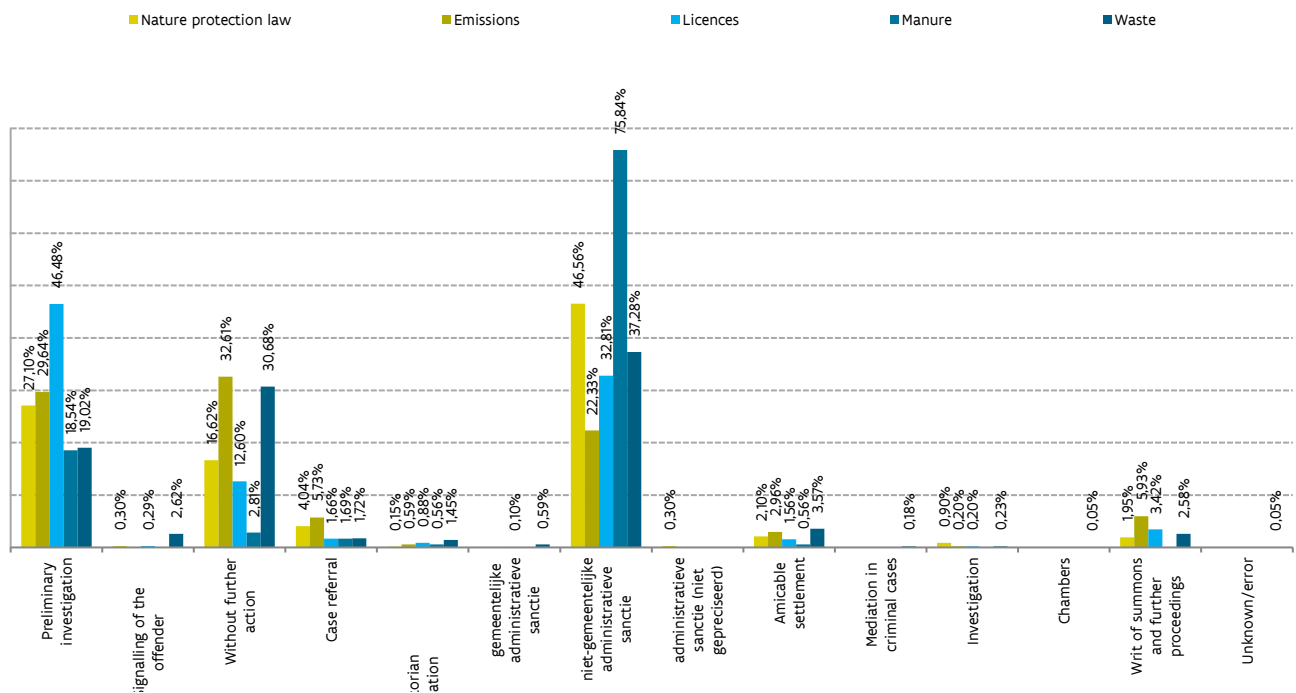
From the above table it can be deduced that the number of cases that were dismissed with a view to the imposition of an administrative fine increased steadily until 2011, but then steadily decreased, before rising again sharply in 2015 and 2016. In terms of percentage, this decline was also noticeable in 2014, before

increasing sharply again since 2015. In fact, almost 4/10 of the total number of Environmental Enforcement cases recorded on the extraction date in 2016 were already transferred to the competent government authority with a view to the imposition of an administrative sanction, the highest percentage since the Environmental Enforcement Decree came into force.

Graph 16 reflects, per state of progress, the share of the different categories of charge codes (waste, manure, licences, emissions and nature protection). The cases involving waste, manure, permits, emissions and environmental management were measured with a reference value set to 100 representing a certain progress state (preliminary investigation, wanted perpetrator, dismissed without further action, referral cases, praetorian probation, municipal administrative sanction, non-municipal administrative sanction,

<sup>46</sup> This is an underestimation, referring to the finding on the page above that certain departments 'make available' the progress state to forward cases to AMMC/the municipality.

amicable settlement, mediation in criminal cases, investigation, summons, etc., unknown/error).



Graph 16: State of progress as on 10 January 2017 for environmental enforcement cases recorded by the criminal divisions of the public prosecutor’s offices in the Flemish Region in 2016 according to the share of the charge category (waste, manure, licences, emissions and nature protection) - Source: database of the Board of Procurators General - statistical analysts

It is not surprising that the majority of cases in almost all progress states – wanted perpetrator, prætorian probation, municipal administrative sanction, amicable settlement – in 2016 concerned waste, since the majority of the registered Environmental Enforcement cases related to waste.

In the state of progress 'preliminary investigation', next to the waste cases, the largest number of cases regarding licences can also be found, of which the preliminary investigation is not concluded within the year. In these cases the offender is mostly given some time to (voluntarily) rectify the unlawful situation, as a result of which taking a guiding decision (writ of summons, amicable settlement, dismissal) usually takes longer in these cases. Also, more than 1/3 of the cases with the

progress state prætorian probation on the extraction date were related to permits. These are cases that have not (yet) been the subject of criminal proceedings, provided that certain measures imposed by the public prosecutor were met.

Table 40 gives a comparison in terms of percentage between the data from 2016, 2015 and 2014 per charge code and per state of progress in which the cases in the charge codes were in on respectively 10 January 2015. The states 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) were compared to a reference value equal to 100, i.e. a specific category of charge code. In order to make a

comparison between 2016 and previous years, the new progress states 'wanted perpetrator', 'praetorian probation', 'non-municipal administrative sanction' and 'municipal administrative sanction' are included in the

progress state 'dismissed without further action' as was the case in the reports of 2015, 2014 and 2013.



	Preliminary investigation			Without further action *			Case referral			Amicable settlement			Mediation in criminal cases			Investigation			Writ of summons and further proceedings			Unknown/error		
	2016	2015	2014	2016	2015	2014	2016	2015	2014	2016	2015	2014	2016	2015	2014	2016	2015	2014	2016	2015	2014	2016	2015	2014
Environmental management	27.10%	21.42%	24.49%	63.92%	62.17%	53.45%	4.04%	12.81%	14.21%	2.10%	2.79%	2.98%	0.90%	0%	0.00%	0.00%	0%	1.62%	1.95%	0.7%	2.44%	0.00%	0.12%	0.68%
Emissions	29.64%	27.33%	25.59%	55.53%	58.76%	56.66%	5.73%	4.58%	5.62%	2.96%	7.2%	6.95%	0.20%	0%	0.00%	0.00%	0.65%	1.04%	5.93%	1.47%	2.66%	0.00%	0%	0.74%
Licences	46.48%	52.52%	48.55%	46.68%	38.99%	41.74%	1.66%	3.17%	2.70%	1.56%	2.52%	5.62%	0.20%	0%	0.00%	0.00%	0.09%	0.40%	3.42%	2.71%	1.10%	0.00%	0%	1.20%
Manure	18.54%	18.22%	19.83%	79.21%	78.98%	71.12%	1.69%	1.87%	4.31%	0.56%	0.93%	2.59%	0.00%	0%	0.00%	0.00%	0%	0.00%	0.00%	0%	0.43%	0.00%	0%	1.72%
Waste	19.02%	21.6%	20.40%	72.62%	67.98%	59.33%	1.72%	1.72%	9.53%	3.57%	4.77%	5.91%	0.23%	0.22%	1.12%	0.05%	0.22%	0.08%	2.58%	3.49%	2.41%	0.05%	0%	1.21%

Table 40. Percentage comparison of data from 2016, 2015 and 2014 per indictment code and the progress state of the cases in the indictment codes on the extraction date. Dismissed without further action wanted perpetrator, dismissed without further action praetorian probation, GAS and non-gas

Table 40 shows that, in 2016, 2.58% of the total number of cases relating to waste on 10 January 2017 were summonsed. This is a slight decline compared with 2015, comparable with 2014. On the other hand, the percentage share of 'dismissed without further action' for waste rose in 2016 compared with 2015 and 2014. In 2016, the percentage of waste made available on the extraction date was just as low as in 2015.

With regard to the cases concerning manure in 2016, it can be noted that, as in 2015 and 2014, on 10 January 2017, the majority, i.e. 79%, were dismissed without further action and almost 1/5 were still in the preliminary investigation phase. On the extraction date – as in 2015 – not a single case had been subpoenaed and only 0.56% of the cases were in the amicable settlement progress state. This is a decline compared with 2015 and 2014.

For cases relating to permits in 2016, a slight increase can be observed in the percentage of cases that were already dismissed without further action on the extraction date. On the other hand, the proportion of cases still in the preliminary investigation stage on the extraction date decreased compared with 2015 and 2014. A slight increase can be observed in 2016 in the number of cases that were already subpoenaed on the extraction date compared with 2015 and 2014.

For cases relating to emissions, an amicable settlement had been proposed on the extraction date for fewer than 3% of the cases. This is less than in previous years. In addition, as in 2014 and 2013, more than half of all cases relating to emissions had already been dismissed without further action on the extraction date.

We observe for environmental management cases that just under 64%, or 426 cases, were dismissed on 10 January 2017 without further action. This represents an increase compared with 2015 and 2014. The proportion of environmental management cases that were already subpoenaed on the extraction date in 2016, namely

1.95%, increased compared with 0.70% in 2015 to just below the 2.44% in 2014.

#### 4.1.3 Reasons for dismissal

In the previous section referring to the state of progress of environmental enforcement cases it was found that, as at 10 January 2017, 24% of the cases had already been dismissed without further action by the public prosecutor's offices in the Flemish Region. However, for the drafting of the present environmental enforcement report the Flemish High Enforcement Council for Spatial Planning and Environment was also provided with figures that further clarify these cases that were dismissed without further action.

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. The sections are reproduced in appendix 1 of circular COL16/2014 of the Board of Procurators General concerning the application of the Act of 12 March 1998. The entry into force of COL 16/2014 also includes some new grounds of which 'ne bis in idem' and 'priority to civil settlement' appear in the data below.

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
- disproportion criminal proceedings - social disruption
- victim's attitude
- compensation to the victim
- insufficient investigation capacity
- other priorities
- priority to civil settlement

- final judgement
- ne bis in idem
- offender(s) unknown

As already mentioned, the cases that were presented in previous reports as 'dismissed for other reasons' (*'administrative fine', 'praetorian probation' and 'wanted perpetrator'*) are categorised for 2016, pursuant to COL 16/2014, in individual progress states, i.e. 'praetorian probation', 'wanted perpetrator', 'municipal administrative sanction' and 'non-municipal administrative sanction', as already discussed in section 4.1.2. Therefore, these cases will no longer be discussed in this section.

Table 41 illustrates the types of 'without further action' (dismissal based on the principle of opportunity and technical dismissal reported by the different public prosecutor's offices in the Flemish Region, compared to all the environmental enforcement cases which were in the 'without further action' state of progress on 10 January 2017.

► Technical dismissal :

- no offence
- insufficient proof
- limitation
- death of the offender

		Opportunity		Technical		Unkown/error		TOTAL	
		n	%	n	%	n	%	n	%
ANTWERP	ANTWERP	52	57.14	39	42.86	.	.	91	100
	MECHELEN	32	74.42	11	25.58	.	.	43	100
	TURNHOUT	56	70.89	22	27.85	1	1.27	79	100
	Total category	140	65.73	72	33.8	1	0.47	213	100
LIMBURG	HASSELT	69	75.82	22	24.18	.	.	91	100
	TONGEREN	55	80.88	13	19.12	.	.	68	100
	Total category	124	77.99	35	22.01	.	.	159	100
HALLE-VILVOORDE		66	69.47	29	30.53	.	.	95	100
LEUVEN		29	54.72	24	45.28	.	.	53	100
EAST FLANDERS	GHENT	138	79.31	36	20.69	.	.	174	100
	DENDERMONDE	104	79.39	27	20.61	.	.	131	100
	OUDENAARDE	55	80.88	13	19.12	.	.	68	100
	Total category	297	79.62	76	20.38	.	.	373	100
WEST FLANDERS	BRUGGE	58	95.08	3	4.92	.	.	61	100
	KORTRIJK	76	90.48	8	9.52	.	.	84	100
	IEPER	25	96.15	1	3.85	.	.	26	100
	VEURNE	25	100	.	.	.	.	25	100
	Total category	184	93.88	12	6.12	.	.	196	100
TOTAL		840	77.13	248	22.77	1	0.09	1,089	100

Table 41: Reasons for dismissing the Environmental Enforcement cases, received in 2016, in which no further action was taken on 10 January 2017, whether or not by merging with a parent case, by public prosecutor's office (and department) *Source: database of the Board of Procurators General – statistical analysts*

The table above shows that 1,089 out of a total of 4,589 Environmental Enforcement cases received by public prosecutors on 10 January 2017 had already been dismissed. This corresponds to nearly 24% of the total number of Environmental Enforcement cases. Of these 1,089 cases, 22.77% were dismissed for reasons of expediency and 77.13% for technical reasons. Based on the figures in the Environmental Enforcement Report 2015, it can be calculated that, on the extraction date in 2015, 29% of the 1,371 dismissed cases were dismissed without further action for reasons of expediency and 71% because of technical reasons. In 2014, this ratio was 33% and 67% for the 1,591 cases that were dismissed at the time. For the purpose of making this comparison, these

dismissal figures for 2014 do not take into account the cases that were dismissed for 'other reasons', i.e. administrative fines, praetorian probation and wanted perpetrator. As indicated above, these breakdowns have been with individual progress states since the 2015 reports and these have been discussed in 4.1.2.

Table 42 shows the reasons for dismissal per heading of the indictment codes (waste, manure, permit, emissions and environmental management) for 2016. This makes it possible, among other things, to form a picture of which types of cases are dismissed for which reasons.

	Environmental management law		Emissions		Licences		Manure		Waste		TOTAL	
	n	%	n	%	n	%	n	%	n	%	n	%
<b>Technical dismissals</b>	<b>75</b>	<b>67.57</b>	<b>115</b>	<b>69.7</b>	<b>92</b>	<b>71.32</b>	<b>4</b>	<b>80</b>	<b>554</b>	<b>81.59</b>	<b>840</b>	<b>77.13</b>
<b>No offence</b>	<b>11</b>	<b>9.91</b>	<b>32</b>	<b>19.39</b>	<b>46</b>	<b>35.66</b>	<b>1</b>	<b>20</b>	<b>63</b>	<b>9.28</b>	<b>153</b>	<b>14.05</b>
Insufficient proof	35	31.53	45	27.27	42	32.56	2	40	366	53.9	490	45
Dropping of criminal proceedings	.	.	2	1.21	2	1.55	.	.	.	.	4	0.37
Death of the offender	.	.	2	1.21	2	1.55	.	.	.	.	4	0.37
Inadmissibility of criminal proceedings	.	.	1	0.61	.	.	.	.	1	0.15	2	0.18
Final judgement	.	.	1	0.61	.	.	.	.	.	.	1	0.09
penalty-exclusive ground for refusal	.	.	.	.	.	.	.	.	1	0.15	1	0.09
<b>Offender(s) unknown</b>	<b>29</b>	<b>26.13</b>	<b>35</b>	<b>21.21</b>	<b>2</b>	<b>1.55</b>	<b>1</b>	<b>20</b>	<b>124</b>	<b>18.26</b>	<b>191</b>	<b>17.54</b>
<b>Dismissal of cases based on the principle of opportunity</b>	<b>36</b>	<b>32.43</b>	<b>49</b>	<b>29.7</b>	<b>37</b>	<b>28.68</b>	<b>1</b>	<b>20</b>	<b>125</b>	<b>18.41</b>	<b>248</b>	<b>22.77</b>
Reasons that are inherent in the nature of the infractions	7	6.31	13	7.88	17	13.18	1	20	36	5.3	74	6.8
Limited consequences for society	3	2.7	1	0.61	.	.	.	.	6	0.88	10	0.92
Situation regularised	3	2.7	12	7.27	17	13.18	1	20	29	4.27	62	5.69
Limited detriment	.	.	.	.	.	.	.	.	1	0.15	1	0.09
Reasonable term exceeded	1	0.9	.	.	.	.	.	.	.	.	1	0.09
<b>Reasons that are inherent in the offender's person</b>	<b>22</b>	<b>19.82</b>	<b>18</b>	<b>10.91</b>	<b>7</b>	<b>5.43</b>	<b>.</b>	<b>.</b>	<b>70</b>	<b>10.31</b>	<b>117</b>	<b>10.74</b>
Lack of precedent	13	11.71	7	4.24	.	.	.	.	19	2.8	39	3.58
Chance events with cause	4	3.6	6	3.64	4	3.1	.	.	14	2.06	28	2.57
young age	.	.	1	0.61	.	.	.	.	1	0.15	2	0.18
Disproportion criminal proceedings – social disruption	4	3.6	4	2.42	3	2.33	.	.	21	3.09	32	2.94
attitude of the victim	1	0.9	.	.	.	.	.	.	2	0.29	3	0.28
<b>Compensation to the victim</b>	<b>.</b>	<b>.</b>	<b>.</b>	<b>.</b>	<b>.</b>	<b>.</b>	<b>.</b>	<b>.</b>	<b>13</b>	<b>1.91</b>	<b>13</b>	<b>1.19</b>
Policy	7	6.31	18	10.91	13	10.08	.	.	19	2.8	57	5.23
Insufficient investigation capacity	2	1.8	.	.	.	.	.	.	8	1.18	10	0.92
Other priorities	4	3.6	4	2.42	8	6.2	.	.	3	0.44	19	1.74
priority to civil settlement	1	0.9	14	8.48	5	3.88	.	.	8	1.18	28	2.57
<b>Unknown/error</b>	<b>.</b>	<b>.</b>	<b>1</b>	<b>0.61</b>	<b>.</b>	<b>.</b>	<b>.</b>	<b>.</b>	<b>.</b>	<b>.</b>	<b>1</b>	<b>0.09</b>
<b>TOTAL</b>	<b>111</b>	<b>100</b>	<b>165</b>	<b>100</b>	<b>129</b>	<b>100</b>	<b>5</b>	<b>100</b>	<b>679</b>	<b>100</b>	<b>1089</b>	<b>100</b>

Table 42: Reasons for dismissal

As already mentioned, 24% of all dismissed Environmental Enforcement cases recorded by the criminal public prosecutors in the Flemish Region in 2016 were already dismissed on the extraction date. This represents no less than 1/5 of the total number of cases recorded in 2016. The majority, namely 840 cases, were dismissed for technical reasons. More than 58% of these 840 cases were dismissed because of insufficient evidence, almost 23% because the perpetrators were unknown, and 16.5% because no crime had taken place.

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 breaches 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. A total of 74 cases were dismissed in 2016 for reasons peculiar to the nature of the facts, 62 of them because the situation had been regularised. In addition, 117 cases were dismissed for motives specific to the offender's person. This may include, but is not limited to, lack of a criminal record, accidental cause or imbalance between criminal proceedings and social disruption, victim's attitude or compensation to the victim. In addition, on 10 January 2017, 57 cases were dismissed for reasons of expediency related to the policy. This may be due to a shortage of investigation capacity, or because priority was given to civil proceedings, or because other priorities were set within the public prosecutor's office. A total of 248, or almost 5.4% of the total number of Environmental Enforcement cases recorded by the criminal public prosecutors in the Flemish Region in 2016, were already dismissed on the extraction date, on the grounds of expediency.

If we look at the various themes, we can see that 111 cases relating to environmental management law were already dismissed on the extraction date. This represents 16.6% of the total number of recorded cases concerning environmental management law. By analogy with the overall ratio, we observe that almost 68% were dismissed for technical reasons, mainly because there was

insufficient evidence, and just over 32% for reasons of expediency, mainly for policy reasons.

With regard to cases relating to emissions, we can see that approximately 69.7% of the total of 165 dismissed cases were dismissed for technical reasons. More specifically, we can conclude that more than 27% of the cases were dismissed because there was insufficient evidence.

In total, 129 of the 1,024 cases relating to permits were dismissed. This equates to 12.6%. With regard to dismissals in permit cases, the majority, namely 35.66%, were dismissed because there was no crime. In addition, 37% were dismissed for reasons of expediency.

Of the five manure cases already dismissed on the extraction date, a significant proportion of the cases, 80%, were dismissed for technical reasons. In addition, 1/5 of the cases were dismissed for reasons of expediency.

On the date of extraction, 30.7% of the total number of recorded cases relating to waste had already been dismissed. More than half, i.e. 54.9% of these dismissed cases were closed without further action because there was insufficient evidence.

## 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 the exclusive and alternative administrative fines are imposed by the regional entity designated by the Government of Flanders, namely the Environmental Enforcement, Environmental Damage and Crisis Management Division of the LNE Department (LNE-AMMC). 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 'amicable settlement' which can be proposed by the LNE-AMMC for certain cases (with regard to both environmental offences and environmental infringements). Given the important role assigned to this division, the LNE-AMMC was also asked about its activities in the framework of environmental enforcement for the Environmental Enforcement Report 2016.

### 4.2.1 Processing of environmental offences

In the framework of the processing of environmental offences by the LNE-AMMC in 2016 it was asked how many official reports the LNE-AMMC received from each of the public prosecutor's offices between 1 January 2016 and 31 December 2016. This is reflected in table 43. In addition, a distinction can be made between the number of priority and non-priority official reports. It is the reporting officer who, based on the 'Priority Memorandum prosecution policy environment law in the Flemish Region 2013', gives this classification to his official report. When reviewing the figures below, the effect of public prosecutor partnerships should also be taken into account. In order to improve the legibility of the tables below, the numbers of official reports received

by LNE-AMMC per partnership are shown in so far as such a partnership exists<sup>47</sup>.

		Priority official reports	Non-priority official reports	Total
East Flanders Public Prosecutor's Office	Dendermonde	46	669	715
	Ghent			
	Oudenaarde			
West Flanders Public Prosecutor's Office	Bruges	81	527	608
	Ieper			
	Kortrijk			
	Veurne			
Antwerp Public Prosecutor's Office	Antwerp	11	244	255
	Mechelen			
	Turnhout			
Limburg Public Prosecutor's Office	Hasselt	22	108	130
	Tongeren	26	77	103
Leuven		5	57	62
Halle-Vilvoorde		10	108	118
Total		201	1.790	1.991

Table 43: Official reports received by the LNE-AMMC of the Department of Environment, Nature and Energy from public prosecutor's offices in the Flemish Region in 2016

It can be deduced from the above graph that in 2016 the LNE-AMMC received a total of 1,991 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<sup>48</sup>. This is a slight increase compared with the 1,932 official reports received by LNE-AMMC in 2015. Since the entry into force of the

<sup>47</sup> The following departments form part of a partnership: the departments of Dendermonde, Ghent and Oudenaarde; the departments of Bruges, Ypres, Kortrijk and Veurne; and the departments of Antwerp, Mechelen and Turnhout.

<sup>48</sup> This concerns the number of official reports the LNE-AMMC received in 2016. It should be taken into account that some of these official reports were drawn up in 2015, and possibly also in 2014, but which the public prosecutor decided in 2016 to refer to the AMMC in view of the imposition of an administrative fine.

Environmental Enforcement Decree in 2009, the number of cases received by LNE-AMMC has increased steadily. In 2009, LNE-AMMC received 304 cases (the low number can be explained by the fact that the Environmental Enforcement Decree did not enter into force until May 2009). The number of cases rose sharply in 2010 and 2011, to 1,100 and 1,597 respectively. This figure initially remained largely stable, with 1,545 cases in 2012 and 1,594 cases in 2013, but has increased further since 2014.

The majority of the cases received by LNE-AMMC in 2016 were non-priority official reports<sup>49</sup>, namely almost 89.6%. Section 3.7 reveals that 45% of the official reports drawn up by supervisors were priority official reports in 2016<sup>50</sup>.

Table 44 not only gives the number of cases the LNE-AMMC received from the public prosecutor's offices in 2016, but also the number of environmental enforcement cases recorded by the criminal divisions of the public prosecutor's offices in the Flemish Region in 2016. This makes it possible to calculate the percentage of cases sent to LNE-AMMC by each public prosecutor's office or public prosecutor partnership. It should be noted that not all official reports recorded by public prosecutors in 2016 were also dealt with in 2016. The public prosecutor's office has a period of 180 days (extendible once by 180 days) within which to decide whether or not to send the case to LNE-AMMC.

		Official reports received by the AMMC from the public prosecutor's offices	Number of environmental enforcement cases registered by the criminal divisions of the public prosecutor's office	% share of the official reports referred to the AMMC
East Flanders Public Prosecutor's Office	Dendermonde	715	1421	50.32%
	Ghent			
	Oudenaarde			
West Flanders Public Prosecutor's Office	Bruges	608	1000	60.80%
	Ieper			
	Kortrijk			
	Veurne			
Antwerp Public Prosecutor's Office	Antwerp	255	967	26.03%
	Mechelen			
	Turnhout			
Limburg Public Prosecutor's Office	Hasselt	130	256	50.78%
	Tongeren	103	329	31.31%
Leuven		62	231	26.84%
Halle-Vilvoorde		118	385	30.65%
Total		1.991	4.589	43.39%

Table 44: Percentage share of cases received by the public prosecutor's offices in the Flemish Region in 2016 and referred to the LNE-AMMC

<sup>49</sup> Non-priority official reports are those official reports designated by the official reporters as findings of crimes that are not included in the protocol 'Priority Memorandum on the prosecution policy for environmental law in the Flemish Region 2013'

<sup>50</sup> In the case of "non-priority official reports", AMMC includes all those that were not designated as "priority". The figures in this report show

that the police do not or only minimally fill in this form: they hardly draw up any priority ORs or do not indicate this.

This creates the distortion that, apparently, almost half of the priority ORs are drawn up (but this figure only relates to supervisors) and 90% of the cases received by AMMC are non-priority (while the official reporters are more than supervisors). The percentages are therefore not fully comparable.



Based on the data above, it can be concluded that the LNE-AMMC in 2016 registered on average 43.39% of the total number of Environmental enforcement cases registered by the public prosecutor's offices in 2016. The public prosecutor's office in West Flanders recorded a total of 1,000 Environmental Enforcement cases in 2016. LNE-AMMC received a total of 608 cases through the collaboration of the various departments of the public prosecutor's office in West Flanders. This means that approximately 60.8% of the cases recorded by the public prosecutor's office of West Flanders on the extraction date had already been submitted to LNE-AMMC with a view to imposing an alternative administrative fine. This

ratio is 26% for the public prosecutor's office in Antwerp and 39.8% for the public prosecutor's office in Limburg. Table 44 shows a ratio of 26.84% for the public prosecutor's offices in Leuven and 30.65% for Halle-Vilvoorde. Generally speaking for 2016, LNE-AMMC received at least ¼ of the total number of Environmental Enforcement cases recorded by public prosecutors with a view to imposing an alternative administrative fine.

Based on the previous environment enforcement reports, these figures are displayed in table 45 per public prosecutor's office since the coming into force of the Environmental Enforcement Act.

		% share of the official reports referred to the AMMC in 2009	% share of the official reports referred to the AMMC in 2010	% share of the official reports referred to the AMMC in 2011	% share of the official reports referred to the AMMC in 2012	% share of the official reports referred to the AMMC in 2013	% share of the official reports referred to the AMMC in 2014	% share of the official reports referred to the AMMC in 2015	% share of the official reports referred to the AMMC in 2016
East Flanders Public Prosecutor's Office	Dendermonde	19.24%	34.28%	49.18%	37.39%	28.42%	39.62%	16.98%	50.32%
	Ghent	13.55%	17.43%	35.61%	50.73%	52.74%	53.60%	66.58%	
	Oudenaarde	5.21%	3.90%	6.75%	6.30%	7.86%	2.84%	6.27%	
West Flanders Public Prosecutor's Office	Bruges	9.09%	12.60%	12.41%	21.68%	30.04%	33.11%	9.44%	60.80%
	Ieper	6.80%	15.93%	15.76%	17.50%	19.02%	9.45%	1.76%	
	Kortrijk	18.29%	20.35%	42.65%	60.10%	77.88%	81.71%	102.90%	
	Veurne	4.55%	15.38%	14.68%	4.96%	21.71%	49.54%	13.64%	
Antwerp Public Prosecutor's Office	Antwerp	6.80%	12.55%	25.25%	11.68%	18.62%	21.33%	34.90%	26.03%
	Mechelen	4.81%	9.39%	18.00%	14.58%	26.42%	10.42%	12.56%	
	Turnhout	16.03%	25.61%	32.08%	29.92%	49.32%	41.24%	55.31%	
Limburg Public Prosecutor's Office	Hasselt	1.88%	2.79%	7.76%	18.21%	37.10%	19.56%	32.13%	50.78%
	Tongeren	3.95%	20.29%	19.45%	32.30%	26.16%	19.51%	26.61%	31.31%
Leuven		5.59%	14.47%	15.93%	24.57%	25.86%	23.40%	25.43%	26.84%
Brussel		1.32%	10.85%	17.22%	34.75%	24.85%	5.35%	/	/
Halle-Vilvoorde		/	/	/	/	/	/	44.23%	30.65%
Total		10.06%	17.28%	26.61%	30.77%	34.49%	33.54%	38.49%	43.39%

Table 45: Percentage share of cases referred to the LNE-AMMC since the coming into force of the Environmental Enforcement Act in 2009

Generally speaking, the percentage share of the number of cases submitted to LNE-AMMC has steadily increased since the entry into force of the Environmental Enforcement Decree in 2009, with the exception of a slight decline in 2014.

The above table also shows ongoing regional differences in the percentage share of official reports sent to LNE-AMMC since the entry into force of the Environmental Enforcement Decree. For example, there are departments that transfer more than half of the official reports they register to LNE-AMMC with a view to imposing an administrative fine, while other public prosecutors make only limited use of this option. However, these shifts and regional differences can partly be explained, as mentioned above, by the existing public prosecutor partnerships and by the fact that the previous years were presented according to the department that

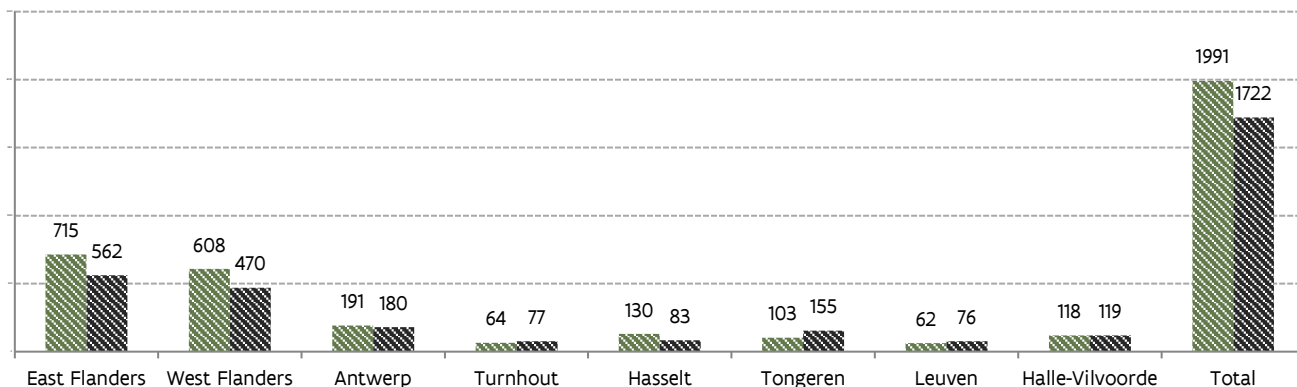
sent the case to LNE-AMMC and not the department of the public prosecutor that has jurisdiction where the report was drawn up.

**NOTE**

The figures above referring to the number of cases submitted by the public prosecutor's offices and received by LNE-AMMC are based on the figures which the Flemish High Enforcement Council for Spatial Planning and Environment received from the LNE-AMMC. On the basis of the figures that the VHRM received from the public prosecutors, a discrepancy can be established if this is compared with cases in the 'non-municipal administrative sanction' progress state on the extraction date. This is illustrated in the following graph.

■ Number of cases regarding environmental offences received by the AMMC Department

■ Number of environmental enforcement cases recorded in 2016 by the criminal divisions of the public prosecutor's offices in the Flemish Region, dismissed for 'other reasons'



Graph 17: Number of cases concerning environmental offences received by LNE-AMMC and the number of Environmental Enforcement cases recorded in 2016 by the criminal divisions of the public prosecutors of the Flemish Region, in the 'non-municipal administrative sanction' progress state.

The above graph shows that LNE-AMMC received 269 cases more than the number already in the 'non-municipal administrative sanction' progress state with the public prosecutors on the extraction date; this is already an overestimation of the number of cases submitted to LNE-AMMC with a view to imposing an administrative fine, considering the proportion of cases transferred to the Manure Bank with a view to imposing

an administrative fine. One possible explanation for this is that the extraction date was not exactly the same day for the public prosecutor's offices and LNE-AMMC.

This imbalance can be observed at the various public prosecutor's offices. For example, 562 cases were in the 'non-municipal administrative sanction' progress state at the East Flanders public prosecutor's office on the

extraction date, while LNE-AMMC stated that it had received 715 cases from this public prosecutor's office in 2016. For the public prosecutor's office in West Flanders, this ratio is 265 cases in the 'non-municipal administrative sanction' progress state and 608 cases received by LNE-AMMC. For the public prosecutor's office in Antwerp, this ratio is 207 cases in the 'non-municipal administrative sanction' progress state and 216 cases received by LNE-AMMC from this public prosecutor's office; the ratio is 238 cases for the public prosecutor's office compared to 233 cases received by LNE-AMMC in Limburg in 2016. Graph 17 shows that LNE-AMMC received 14 and one fewer cases in 2016 from the public prosecutor's offices of Leuven and Halle-Vilvoorde respectively than the number of cases in the 'non-municipal administrative sanction' progress state on the extraction date.

In light of this interference in data collection, the analysis of this component will be based on the figures that the Flemish High Enforcement Council for Spatial Planning and Environment received from the LNE-AMMC.

In line with the previous environmental enforcement reports, more specific data are included on the origin and the theme of the cases that were submitted to LNE-AMMC. Table 44 shows the number of cases received by LNE-AMMC from the public prosecutor's offices, drawn up by the various enforcement bodies, namely the Agency for Roads and Traffic, the federal police, the local police, the municipal and inter-municipal supervisors, LNE-AMI, the provincial supervisors, the special constables, LNE-AMI, ANB, OVAM, VMM and VLM.

Enforcement actor	PV door AMMC in 2016 ontvangen			
	Priority	%	Non-priority	%
Agency for Roads and Traffic	3	1.49%	88	4.92%
Federal police	0	0.00%	39	2.18%
Local police	17	8.46%	859	47.99%
Municipal supervisors	9	4.48%	113	6.31%
Intermunicipal supervisors	1	0.50%	7	0.39%
Provincial supervisors	0	0.00%	0	0.00%
LNE - AMI	40	19.90%	273	15.25%
LNE - AMV	1	0.50%	1	0.06%
ANB	61	30.35%	264	14.75%
Special rural constabulary	5	2.49%	66	3.69%
OVAM	1	0.50%	7	0.39%
VLM	63	31.34%	69	3.85%
VMM	0	0.00%	0	0.00%
LNE - ALBON	0	0.00%	1	0.06%
De Scheepvaart nv	0	0.00%	1	0.06%
CITES Inspectorate	0	0.00%	1	0.06%
Agency for Care and Health	0	0.00%	0	0.00%
MOW Department	0	0.00%	0	0.00%
Agentschap Maritieme Dienstverlening en Kust (Agency for Maritime Services and Coast)	0	0.00%	0	0.00%
Waterwegen en Zeekanaal Agency	0	0.00%	0	0.00%
NMBS securail	0	0.00%	1	0.06%
Total	201	100.00%	1790	100.00%

Table 46: Percentage share of the official reports received by the LNE-AMMC in 2016, per enforcement actor

44% of the official reports which the LNE-AMMC received in 2016 were drawn up by the local police. In absolute figures it concerned 876 official reports. In addition, it is clear from table 46 that 16.3% of the received official

reports were drawn up by the Agency for Nature and Forests and almost 15.7% by AMI supervisors.

Table 47 gives an overview of the topics of the cases which the LNE-AMMC received in 2016. Here, the same themes are used as those in the evaluation of the

sanctions policy pursued by the public prosecutor's offices.

Environmental theme	OR received by AMMC in 2016				
	Number	Priority	%	Non-priority	%
Nature protection	66		32.84%	363	20.28%
Emissions	29		14.43%	272	15.20%
Licences	29		14.43%	252	14.08%
Manure	61		30.35%	75	4.19%
Waste	16		7.96%	828	46.26%
Total	201		100.00%	1790	100.00%

Table 47: Percentage share of official reports received by the LNE-AMMC in 2016, per environmental theme

The table above shows that 42% of the cases concerned waste. In addition, more than 1/5 of the cases received by LNE-AMMC in 2016 were related to environmental management, 15% to emissions, 14% to permits and 7% to manure.

Table 48 gives an overview of the number and type of decisions taken by the LNE-AMMC in 2016 within the framework of the alternative administrative fine. As mentioned earlier, since September 2016, the LNE-AMMC has the option to propose an administrative transaction for certain environmental offences. This administrative transaction can be regarded as a form of administrative amicable settlement. As a result, the procedure for the imposition of a fine lapses when the

proposed amount is paid. However, when the offender refuses the proposal of an administrative transaction, the LNE-AMMC will resume the procedure for the imposition of an alternative administrative fine. The VHRM has thus also asked the LNE-AMMC, as it did in 2015, to indicate how many such administrative transactions were proposed in 2016.

Table 48 presents the data for 2016 as well as the decisions taken by the LNE-AMMC in the framework of the alternative administrative fine since the entry into effect of the Environmental Enforcement Act.

	2009	2010	2011	2012	2013	2014	2015	2016
Official reports received by AMMC from the public prosecutor's offices	304	1.100	1.597	1.545	1.594	1693	1.932	1.991
Handling/settling files in the context of alternative administrative fine	5	219	378	1.442	1.543	1737	2.234	2.297
Ruling did not imply a fine	0	6	40	402	258	231	348	371
Ruling implied a fine	0	151	279	1.040	966	848	1.356	1.083
(Proposed and) paid administrative transaction	/	/	/	7	311	658	(912) 530	(1.056) 843
The official report did not fall under the scope of Chapter XVI of the DABM.	5	62	59	0	8	0	/	/

Table 48: Decisions taken by the LNE-AMMC in the context of alternative administrative fines

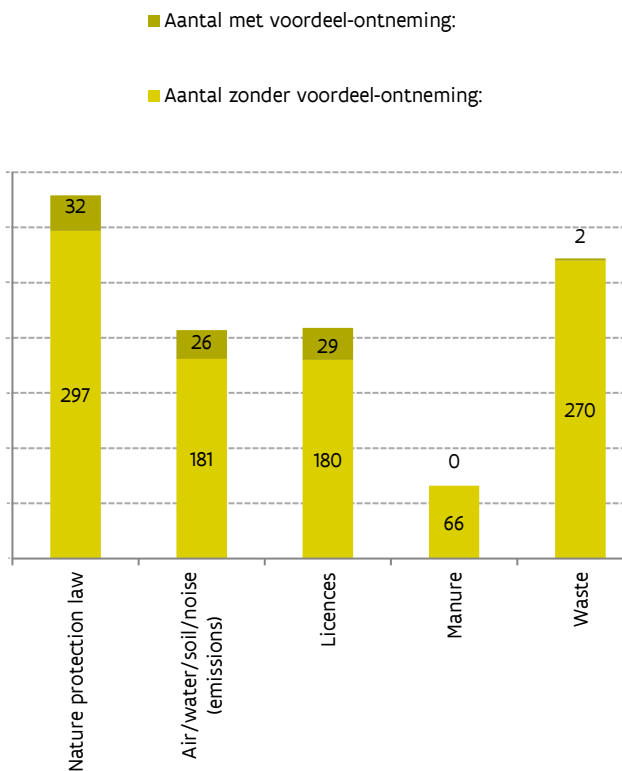
For 2016, we see that LNE-AMMC received 1,991 dossiers and processed 2,297 cases. This means that, in 2016, decisions (and even a majority of them) were made concerning cases from previous years. A total of 1,083 alternative administrative fines were imposed. In 371 cases it was decided not to impose a fine. In addition, 1,056 administrative transactions were proposed and 843 were paid. The 1,083 decisions relating to fines also include the fines that were imposed after the administrative transaction proposal was not accepted.

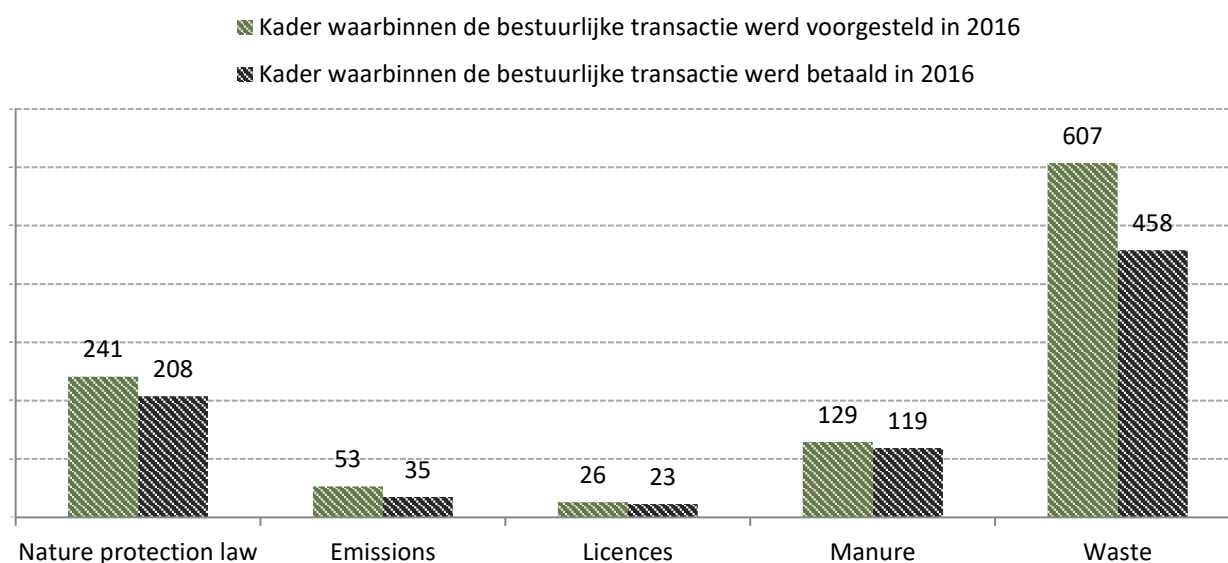
In general, since the introduction of the Environmental Enforcement Act in May 2009, the LNE-AMMC has received no less than 11,756 official reports from the public prosecutor's. Between 1 May 2009 and 31 December 2016, the LNE-AMMC reached a decision in 83.8% of these 11,756 cases. During this period 5,483 alternative administrative fines were imposed. In addition, it was decided not to impose a fine in 1,790 cases. It was concluded that the official report did not fall within the scope of the Environmental Enforcement Act.

Graph 18: Framework within which an alternative administrative fine was imposed by the LNE-AMMC, with and without a deprivation of benefits

Graph 18 shows that an expropriation of unlawful material benefits was imposed in 89 out of a total of 1,083 alternative administrative fines given in 2016. This equates to 8%. Of the 329 decisions imposing fines in relation to environmental management, 32 alternative fines were accompanied by an expropriation of unlawful material benefits. In the case of fines in connection with emissions, 26 out of 207 fines were linked to an expropriation of unlawful material benefits. From a percentage point of view, the expropriation of unlawful material benefits generally accompanied fines related to permits, i.e. almost 14% of the total number of fines related to permits. On the other hand, as in 2015, we see that in 2016 not a single alternative administrative manure fine imposed involved an expropriation of unlawful material benefits.

it can be stated that in 30% of the fine decisions taken in 2016, the official report was related to waste. Around 16% related to environmental management. 22% of the alternative fines imposed in 2016 related to emissions and 8% to manure. In addition, almost 1/5 of the decisions imposing fines related to permit cases.





Graph 19: Framework for proposing and paying administrative transactions, by environmental theme

In graph 19, the framework within which the administration transactions are proposed in 2016 and the framework in which the administrative transactions were paid in 2016 is shown.

Graph 19 shows that LNE-AMMC proposed a total of 1,086 administrative transactions in 2016 and that more than half of these proposals, i.e. 56%, related to waste. In addition, for 22% of the proposals, the case related to environmental management and more than 10% of the dossiers related to manure.

In addition, based on the graph, it can be concluded that in 2016 a total of 843 proposals to payment in the context of the procedure for administrative transactions was accepted. Given that the payment term for an administrative transaction is 3 months, administrative transactions proposed in 2015 were only paid in 2016. However, given these payment terms, it is not possible to establish a one-to-one relationship between the proposals and the administrative transactions actually paid, on the basis of the above table. LNE-AMMC states that the overall payment response for the proposed administrative transactions was 77.6% in 2016. The payment rate, however, depends on the theme. For

example, the payment rate for emissions is only 66%, while the administrative transaction is accepted in 92% of the manure cases.

#### 4.2.2 Processing of environmental infringements

In the context of dealing with environmental infringements, LNE-AMMC was asked to indicate how many incident reports it had received in 2016, by whom they were drawn up, and for what reason these incident reports were drawn up and fined.

LNE-AMMC reported that a total of 131 incident reports were received in 2016 in relation to identified environmental infringements. 93% of these incident reports were drawn up by regional supervisors. In fact, 92 were transferred to LNE-AMMC by ANB, 6 by OVAM, 16 by LNE-AMI, 6 by VLM and 2 by LNE-AMV. In addition, five incident reports were drawn up by municipal supervisors and four by local police supervisors.

The section 'Evaluation of the incident report instrument' reports on the use of the instrument by supervisors. For this reason, the various supervisors were therefore asked how many incident reports they had drawn up in 2016.

These numbers differ from the numbers received by LNE-AMMC in 2016. In total, the supervisory bodies reported having drawn up 214 incident reports, compared with 131 received by LNE-AMMC in 2016. The responding municipal supervisors stated that they had drawn up a total of 18 incident reports, whereas in 2016 LNE-AMMC received only five incident reports from this enforcement body. The local police supervisors reported having drawn up 12 incident reports, while LNE-AMMC received only half. On the other hand, it may be noted that the responding regional supervisors drew up 112 incident reports in 2016, while LNE-AMMC received 124 incident reports.

The LNE-AMMC was asked to indicate in what framework identification reports were drawn up in 2016. This is reflected in table 49

Nature protection	92
Air/water/soil/noise (emissions)	13
Licences	19
Manure	6
Waste	1

Tabel 49: Identification reports received by the LNE-AMMC per subject, in 2016

The table above shows that 70% of the total number of incident reports concerned environmental management and 14.5% concerned permits. In addition, 10% of the 131 incident reports received concerned emissions and only 0.01% concerned waste.

LNE-AMMC was asked to indicate which decisions were taken in 2016 with regard to incident reports received. Table 48 summarises the decisions taken in 2016 in the context of exclusive administrative fines. Based on the data from the previous environmental enforcement reports, it is possible to provide an overview of the decisions taken by LNE-AMMC in the context of exclusive administrative fines and the reports received since the entry into force of the Environmental Enforcement Decree. It is also possible to give an idea of the processing of environmental infringements by LNE-AMMC. Table 50 shows this comparison.

	2009	2010	2011	2012	2013	2014	2015	2016
Identification reports received by AMMC	18	38	18	47	89	50	137	131
Processing/completion of cases in the context of exclusive administrative fines	4	13	36	52	65	31	127	100
Ruling did not imply a fine	1	0	2	3	0	4	10	6
Ruling implied a fine	3	5	32	49	54	20	68	32
(Proposed and) paid administrative transaction	/	/	/	0	11	7	(65) 49	(92) 62
The identification report did not fall under the scope of Chapter XVI of the DABM.	0	8	2	0	0	0	/	/

Table 50: Decisions taken by the LNE-AMMC in the context of exclusive administrative fines



The table above shows that in 2016 LNE-AMMC received a total of 131 incident reports and took 100 decisions on identified environmental infringements. In 32% of these decisions an exclusive administrative fine was imposed, while in six cases it was decided not to impose a fine. In addition, 92 administrative transactions were presented and 62 were paid. The 32 decisions that involved a fine also included the fines that were imposed after the administrative transaction proposal was rejected.

Since the entry into effect of the Environmental Enforcement Act in May 2009 until 31 December 2016, the LNE-AMMC received a total of 528 identification reports. A decision was already reached within that period for 81% of these cases. For example, in 263 cases an exclusive administrative fine was imposed, representing 50% of the total number of decisions, and in 36 cases it was decided not to impose an administrative fine or it was found that the incident report did not fall within the scope of the Environmental Enforcement Decree. We can also see that 129 files were dealt with by means of the accelerated procedure, namely the administrative transaction.

Table 51 shows the framework within which the fines were imposed by LNE-AMMC in 2016.

<i>Framework within which an exclusive administrative fine was imposed:</i>	Number of files <u>without</u> expropriation of unlawful material benefits:	Number of files <u>with</u> expropriation of unlawful material benefits:
Nature protection	19	0
Air/water/soil/noise (emissions)	2	0
Licences	9	1
Manure	0	0
Waste	1	0

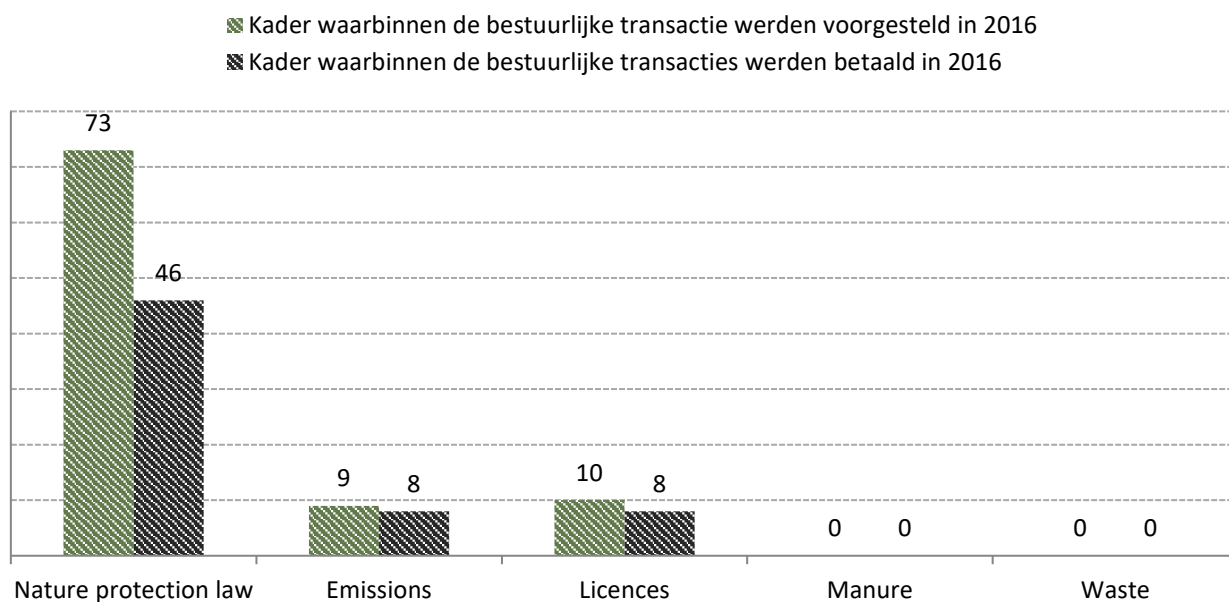
Table 51: Framework within which an exclusive administrative fine was imposed

The table above shows that barely one case of the exclusive administrative fines imposed in 2016 was accompanied by an expropriation of unlawful material benefits, and that concerned a case involving permits. In addition, it can be noted that more than half of the cases in which an exclusive administrative fine was imposed concerned environmental management, while 28% concerned permits. In addition, 6% of the cases related to emissions and 9% to waste.

Graph 20 shows the framework within which the administrative transactions were proposed in 2016 and the framework within which the administrative transactions were paid in 2016.<sup>51</sup>

<sup>51</sup> Some of the administrative transactions proposed in 2016 will be paid in 2017. In addition, in 2016 administrative transactions that had been

proposed in 2015 were accepted. The link is therefore not 100% in view of the payment term of three months.



Graph 20: Framework within which administrative transactions were proposed and paid, by environmental theme

Graph 20 shows that LNE-AMMC proposed a total of 92 administrative transactions in 2016, and that 79% of these proposals related to environmental management. In addition, 11% of the proposals related to emissions and 10% to permits.

It can also be seen from the graph that in 2016 a total of 62 payment proposals were accepted under the administrative transaction procedure. As the payment term for an administrative transaction is three months, administrative transactions proposed in 2015 were not paid until 2016. However, given these payment terms, the graph does not allow a one-to-one relationship to be established between the proposals and the administrative transactions actually paid.

### 4.3 EVALUATION OF THE ADMINISTRATION OF JUSTICE BY THE ENVIRONMENTAL ENFORCEMENT COURT

The Environmental Enforcement Court (MHC) is an independent administrative court that was established pursuant to Article 16.4.19 of DABM. It rules on appeals against decisions of the Environmental Enforcement, Environmental Damage and Crisis Management Division (LNE-AMMC) imposing an alternative or exclusive administrative fine, whether or not accompanied by an expropriation of unlawful material benefits, which were taken after an environmental infringement or an environmental offence was established.

The decisions that the Environmental Enforcement Court can take are stated in Article 16.4.19(3) of the Environmental Enforcement Decree:

- ▶ the Environmental Enforcement Court is not competent to hear the appeal, in which case it decides to dismiss the appeal;
- ▶ the appeal is inadmissible. In this case too, the Environmental Enforcement Court decides to dismiss the appeal without being able to proceed to examine the merits of the case;
- ▶ the appeal is unfounded. In this case, the Environmental Enforcement Council also decides to dismiss the appeal, but after the merits of the case

have been examined. That decision confirms the contested decision imposing a fine on the appeal aspect;

- ▶ the appeal is well founded. In this case, the Environmental Enforcement Court annuls the contested decision in whole or in part, in which case (as a rule) LNE-AMMC can take a new decision, except in those cases in which it is not or no longer competent. However, the Environmental Enforcement Court itself can also take a decision on the amount of the fine and, where applicable, the expropriation of unlawful material benefits, and determine that its ruling on this matter replaces the annulled decision.

The Environmental Enforcement Court was also surveyed by the VHRM about its activities in 2016. It was asked about the number of appeals against decisions of the LNE-AMMC it had received in the framework of both environmental offences and environmental infringements in 2016. Another question was how these appeals were processed. Table 52 shows the activities of the Environmental Enforcement Court in 2016 with regard to the appeals lodged against decisions of the LNE-AMMC.

APPEALS	Environmental offences	Environmental breaches	Total
Received in 2016	<b>138</b>	<b>2</b>	<b>140</b>

ARRESTEN	Environmental offences	Environmental breaches	Total
Appeal inadmissible (after simplified procedure)	<b>23</b>	<b>2</b>	<b>25</b>
Appeal unfounded, fine confirmed	<b>49</b>	<b>1</b>	<b>50</b>
Appeal well founded in whole or in part, with reduction/waiver of fine	<b>13</b>	-	<b>13</b>
Appeal well founded in whole or in part, AMMC decision annulled without further ado	<b>17</b>	-	<b>17</b>
Granting waiving appeal	<b>3</b>	-	<b>3</b>
Appeal devoid of purpose	<b>20</b>	-	<b>20</b>
Interlocutory judgment	<b>4</b>	<b>1</b>	<b>5</b>
Total	<b>129</b>	<b>4</b>	<b>133</b>

Table 52: Appeals received against decisions of the LNE-AMMC in the context of environmental offences and environmental infringements by the Environmental Enforcement Court in 2016 and the results of the processing thereof

In the previous section it was indicated that the LNE-AMMC imposed 1,083 alternative administrative fines in 2016. It can be deduced from table 52 that the Environmental Enforcement Court received 138 appeals against decisions of the LNE-AMMC regarding the imposed alternative administrative fines in 2016. This means that almost 13% of LNE-AMMC's decisions were appealed. However, there is no conclusive one-to-one relationship. This percentage cannot be given precisely because the offender has a period of 30 days, starting on the day following the notification of LNE-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 LNE-AMMC during the last thirty days of 2016. This may in turn be cancelled out by the fact that the appeals received in 2016 can also refer to decisions taken in the last thirty days of 2015.

Compared with 2015 and 2014, the 'appeal percentage' for LNE-AMMC's decisions in the context of the alternative administrative fines remained more or less stable. In the Environmental Enforcement Report 2015 the ratio was 11%, and in 2014 it was 12%. If one looks at

the period from the entry into force of the Environmental Enforcement Court up to and including 2016, an appeal percentage of slightly more than 10% can be established, since a total of 602 appeals were recorded with the Environmental Enforcement Court and a total of 5,725 alternative administrative fines were imposed by LNE-AMMC in that period.

The table above shows, among other things, that the Environmental Enforcement Court recorded 140 appeals in 2016 and that a total of 133 judgments were handed down in 2016. Of the total number of appeals lodged against the alternative administrative fines imposed, 18% were declared inadmissible, almost 36% of the appeals were declared unfounded with confirmation of the fine imposed by LNE-AMMC and 9% of the appeals submitted were declared wholly or partly well founded, with the fine being reduced or waived. In 4% of the judgments in 2016, an interlocutory judgment was handed down in 2016.

In total, the Environmental Enforcement Court received, since its commencement of operations and up to and including 2016, 602 appeals pertaining to alternative administrative fines imposed by the LNE-AMMC and in

this same period, 456 (interim) decisions were taken, which represents nearly 76%.

In the context of the exclusive administrative fines imposed by LNE-AMMC in 2016, table 50 shows a minimum 'appeal rate' of only 6%. It was indeed indicated in the previous section that in 2016 the LNE-AMMC imposed 32 exclusive administrative fines, whereas the Environmental Enforcement Court received 32 appeals in 2016 in the context of exclusive administrative fines. However, there is no conclusive one-to-one relationship. The percentage of the appeal rate may indeed differ, since the offender has a period of 30 days, starting on the day following the notification of LNE-AMMC's decision, to lodge an appeal with the Environmental Enforcement Court. This means that an appeal could still have been lodged against LNE-AMMC's decisions taken in the last 30 days of 2016.

The Environmental Enforcement Report 2015 indicated that in 2015 the Environmental Enforcement Court received one appeal against decisions taken by LNE-AMMC in the context of environmental infringements. LNE-AMMC imposed 68 exclusive administrative fines in 2015. This means that the "appeal rate" in 2015 was only 1%. In 2014, 20 exclusive administrative fines were imposed by LNE-AMMC and eight appeals were submitted to the Environmental Enforcement Court, signifying an appeal rate of 40%. If one looks at the period from the entry into force of the Environmental Enforcement Court up to and including 2016, an appeal percentage of less than 11% can be established, given that a total of 28 appeals were recorded with the Environmental Enforcement Court and a total of 263 exclusive administrative fines were imposed by LNE-AMMC in that period.

Table 52 shows that the Environmental Enforcement Court received 2 appeals against imposed exclusive administrative fines in 2016 and actually reached 4 decisions in 2016. One appeal was upheld in whole or in part, with reduction/waiver of the fine, and one interlocutory judgment was handed down.

In total, the Environmental Enforcement Court received, since its commencement of operations and up to and including 2016, 28 appeals pertaining to exclusive administrative fines imposed by the LNE-AMMC and in this same period, 26 (interim) decisions were taken, which represents nearly 93% of the total number of appeals.

#### 4.4 EVALUATION OF THE SANCTIONS POLICY PURSUED BY THE FLEMISH LAND AGENCY

Not only the Environmental Enforcement, Environmental Damage and Crisis Management Division (LNE-AMMC) 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 may relate to the following infringements: nitrogen and phosphate balance; over-fertilisation of lot; more animals than nutrient emission rights; unsubstantiated manure application; notification and deregistration of transport; late notification of transport; transport without proof of dispatch or submission of a neighbour agreement; not concluding or reporting a neighbour agreement; transport without a correct or with an incomplete manure application document; failure to draw up a registration contract, failure to provide information; incorrect declaration; failure to keep a register; nutrient balances not available for inspection; transport without compulsory

documents; objection to use of Sanitel; no or incorrect use of AGR-GPS; obligation to process manure and processing 25% NER; manure excretion balances: for inspection and on declaration; transport by authorised consignors: reporting or deregistration; transport by authorised consignors: without shipping document; nitrate residue in risk area: exceedance; nitrate residue in risk area: resistance to sampling and nitrate residue (both in and outside risk area): cultivation plan and fertilisation plan/register; not or incorrectly implementing nitrate residue provisions or not complying with the measures imposed; performing a neighbour agreement in which the towing vehicle is not the property of the supplier or buyer of the manure; and performing a neighbourly agreement without reporting the transport to the Mestbank in good time.

The Flemish Land Agency (VLM) was therefore not only asked about the number of environmental enforcement inspections carried out in 2016 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.

Table 53 shows the number of field identifications and the number of administrative fines imposed by the VLM in 2016.

Administrative fines and site identifications imposed by VLM in 2016 in accordance with the provisions laid down in the Manure Decree	2016	
	Number of field identifications	Number of administrative fines
<b>ADMINISTRATIVE FINES IMPOSED BY THE VLM IN KEEPING WITH THE PROVISIONS INCLUDED IN THE FLEMISH PARLIAMENT ACT ON MANURE</b>	72	2.664
<b>Fines under the previous MAP IV Manure Decree imposed in 2016</b>		
63 § 3 overfertilisation of a plot	0	6
63 § 10 late notification of shipments	0	1
63 § 11 shipments without proof of dispatch or presentation of an agreement with the neighbours	0	1
63 § 15 erroneous notification	0	2
63 § 16 failure to keep a register	0	1
63 § 18 shipment without mandatory documents	0	2
63 § 20 failure to use or incorrect use of AGR-GPS	0	4
63 § 32 notice of performing a neighbour agreement	0	2
<b>Fines under the current MAP V Manure Decree imposed in 2016</b>		
63 § 1 the balance nitrogen and phosphate	0	37
63 § 3 Fulfilment of manure treatment obligation	0	138
63 § 5 Over-fertilisation of a lot (lots with a zero restriction on fertilisation or the application of twice the quantity than that permitted by decree)	8	8
63 § 6 Failure to file or incorrect filing of the declaration	1	749
63 § 9 Not having nitrate residue analysis carried out or not doing so correctly	0	97
63 § 10 Failure to implement measures imposed in accordance with the Manure Decree	2	2
63 § 12 2° Incorrect or lack of subsequent notification or conclusion of transport by the approved manure transporter	11	9
63 § 12 3° Incorrect or lack of subsequent notification or conclusion by the authorised consignor	0	1
63 § 12 5° Incorrect or lack of subsequent notification or conclusion of the neighbour agreement	1	0
63 § 12 6° Transport of fertilisers without documents being prepared by the manure transporter	7	3
63 § 12 7° Failure to draw up the neighbour agreement	8	12
63 § 12 9° The supplier or purchaser of manure who should have known that the required documents had not been drawn up	8	12
63 § 12 10° No or incorrect use of AGR-GPS	11	10
63 § 12 12° The supplier or purchaser of manure who had to use a certain method to determine the manure composition and who has not used it	0	1
63 § 12 13° The manure transporter who should have known that the manure composition was not determined in accordance with the correct method	3	3
63 § 12 14° The supplier or customer who transports manure with an invalid analysis	6	3
63 § 13 Minor infringements in connection with transport documents	6	5

Table 53: Number and nature of the administrative fines by the Flemish Land Agency

Table 53 shows that in 2016 the Flemish Land Agency (VLM) imposed 2,664 fines following 72 field identifications. The difference between the number of infringements identified in the field and the number of imposed fines originates from the term for the imposition of the fines. A fine was not always imposed in 2016 for all the identifications that were made in 2016. The fines imposed in 2016 may still relate to breaches that were identified during previous years. On the other hand, it is possible that breaches that were identified in 2016 were not fined until 2017. Moreover, the fines imposed in 2016 originate from breaches identified in the field, as well as from administrative inspections. This means that some of the fines were imposed administratively following the inspection of the database and that these are not reflected in the number of field identifications either. A limited number of fines for findings from the year 2016 have not yet actually been imposed and have therefore not yet been included in the report.

Table 51 shows, among other things, that 28% of the total number of fines imposed were imposed for failure to comply with the declaration obligation and 5% for failure to comply with the manure processing obligation.



## 5 CONCLUSIONS AND RECOMMENDATIONS

This section will provide an overview of the conclusions regarding the evaluation of the implemented environmental enforcement policy, the use of the instruments, and the sanctions policy in 2016.

Based on the formulated conclusions and insights, this section subsequently formulates recommendations for the further development of environmental enforcement policy.

### 5.1 EFFORTS

#### Regional supervisors

Based on the data in the second chapter, it can be concluded that a total of 765 regional supervisors were appointed in 2016. This number is higher than the 741 and 711 regional supervisors appointed in 2015 and 2014 respectively. In 2016, a total of 186.95 FTEs were deployed for environmental enforcement duties by the regional supervisory bodies, of which 171.51 by the supervisors and 15.44 by non-supervisory bodies for administrative support. In 2015, the total amount of FTEs deployed for environmental enforcement tasks by the supervisory bodies was 181.72 FTEs and 174.72 FTEs in 2014. So not only did the number of supervisors increase in 2016 but also the amount of time spent on environmental enforcement tasks. On the other hand, the number of environmental enforcement inspections carried out by these regional supervisors decreased in 2016 compared with 2015. In 2016, a total of 33,159 inspections were carried out by regional supervisors, compared with 37,625 in 2015. This seemingly sharp fall in the number of inspections carried out – which is still well above the 27,558 inspections in 2014 – was despite the increase in the number of supervisors appointed and the number of FTEs deployed on enforcement activities. The decrease is mainly due to the number of ‘Annual Overall Environmental Report’ inspections carried out by OVAM. For 2016, a decrease in the average number of inspections per supervisor and the average number of inspections per FTE can also be observed. The average number of inspections per supervisor was 40 in 2013, 39

in 2014 and increased to an average of 51 environmental enforcement inspections per supervisor in 2015. In 2016, this fell back to just above the 2013 level with 43 inspections. The average number of audits per FTE was 175 in 2013, 158 in 2014, 207 in 2015 and 177 in 2016.

In other words, a positive evolution can thus be observed in 2016 with regard to the efforts made by the regional supervisory bodies, given the increase in the number of appointed regional supervisors and the number of FTEs deployed on enforcement tasks. The decrease in the number of environmental enforcement inspections carried out compared with 2015 is almost entirely explained by the fact that OVAM carried out fewer inspections in 2016, as planned.

#### Local and federal police

The data concerning the local and federal police show that, in 2016, a total of 12,968 official environmental reports were drawn up in the Flemish Region. Approximately 98% of these official reports were drawn up by the local police and 2% by the federal police. More than 22% of these official reports related to ‘waste by private individuals’. In 2015, a total of 13,373 official reports were drawn up by the police services.

In 2016, the Federal Police carried out 497 proactive inspections of waste shipments on the territory of the Flemish Region, as part of the National Safety Plan 2016-2019. This is a decline compared with the 595 proactive inspections carried out in 2015.

With regard to the local police, the data in chapter 2 show that in 2016 only 29% of the 72 responding police districts were able to call upon a supervisor appointed within their own police district. This is a decline compared with 2015, when almost 46% of the 70 responding police districts had at least one supervisor at their disposal. This decrease is possibly explained by a drop in the number of appointed supervisors in the category with 50,000-74,999 inhabitants. In this category, the number of appointed supervisors fell from 25 to 10, a decrease of 60%. The total number of supervisors within the police districts fell in the past year, and also the average number of supervisors per police district with at least one supervisor decreased in 2016 compared with 2015 and 2014. The proportion was 1.84 in 2014, 1.88 in 2015 and 1.71 in 2016. Despite this, the number of FTEs deployed for environmental enforcement duties by these supervisors fell only slightly in 2016 to 25.5 FTEs, compared with 2015 when 26 FTEs were deployed on enforcement tasks; however, this still represents a decline compared with the 28 FTEs deployed in 2014. This also means that the average amount of time spent by each supervisor has also fluctuated slightly in recent years, but in general we can conclude that the average local police supervisor is engaged in environmental enforcement duties for at least half of their time – and until 2016 even for 71% of their time. For 2016 it was also possible to calculate the average time, i.e. 1.21 FTEs, spent on environmental enforcement tasks in the police districts that have appointed supervisors within their own police district. In 2014, the average amount of time for these duties was 0.86 FTE, and in 2015 it was 0.83 FTE.

In 2016, a total of 3,550 environmental enforcement inspections were carried out – 77% of which were carried out in response to complaints and reports – by the 36 supervisors appointed within the local responding police districts. This is a decline compared with the 5,661 inspections carried out by 60 supervisors in 2015 and the 4,900 environmental enforcement inspections carried out by 59 supervisors in 2014. The decrease in the number of inspections in 2016 compared with 2015 is mainly due to the category of 50,000-74,999 inhabitants,

in which, as mentioned above, 60% fewer supervisors were appointed. In this category, the number of inspections carried out fell from 1,531 in 2015 to just 188 in 2016. The average number of environmental enforcement inspections per supervisor rose to 99 in 2016, compared with 83 in 2014 and 94 in 2015. The number of inspections carried out by the appointed supervisors of the responding police districts therefore increased on average, but in absolute terms the number of inspections fell by 37% compared with 2015. The average number of inspections per FTE also fell from 177 in 2014 to 215 in 2015 and 139 environmental enforcement inspections per FTE in 2016. In comparison with regional and municipal supervisors (see below), local police supervisors have the highest number of inspections per supervisor and the highest average time spent per supervisor.

## Provinces

With regard to the activities of the provincial governors related to imposing administrative measures and safety measures, it can be concluded that the provincial governors hardly received any questions/requests for the imposition of administrative measures in 2016, nor did they impose any administrative measures on their own initiative. Only one provincial governor, that of the Province of Antwerp, received questions or requests to impose safety measures. In 2016, one safety measure was taken or imposed by the provincial governor of the Province of Antwerp.

Only two of the five provinces had together 15 appointed provincial supervisors in 2016. Within these two provinces, a total of 1.1 FTEs were deployed for environmental enforcement tasks pursuant to the Environmental Enforcement Decree. A total of 59 environmental enforcement inspections were carried out by the provincial supervisors.

## Towns/cities

Like the provincial governors, the mayors of Flemish cities and municipalities have powers with regard to administrative measures and safety measures pursuant

to the Environmental Enforcement Decree. In 2016, only 10% of the 182 responding mayors received a request or a question to impose an administrative measure. A similar percentage, namely 14.3%, applies for the number of mayors who actually imposed an administrative measure in 2016. In total, the responding mayors received 24 questions/requests for the imposition of administrative measures. This is a sharp decrease compared with previous years, for example 123 questions/requests were received in 2015 and 193 in 2014. However, the response rate should be taken into account, which is only 59% for 2016 compared with 79% for 2015 and 79% for 2014. In addition, the second chapter shows that a total of 55 administrative measures were imposed by the mayors. This is also a sharp decrease compared with 2015, where again reference should be made to the low response rate for 2016. The majority, i.e. 62%, of the administrative measures imposed in 2016, were regularisation orders. With regard to the safety measures, it was found that only 2% of the responding mayors together had received seven questions about the imposition of a safety measure in 2016. In addition, 4% of the responding mayors also effectively imposed a safety measure in 2016. A total of 22 safety measures were imposed by the mayors.

With regard to nuisance-causing plants in Flemish cities and municipalities, the data in chapter 2 show that, in 2016, 154 of the 182 responding municipalities together had 9,874 class 1 plants and 28,656 class 2 plants on their territory. The remaining 29 municipalities reported that they have no information about the number of class 1 and class 2 establishments on their territory. The number of municipalities that have no insight into the number of class 3 establishments is slightly higher, namely 23% of the total of 182 responding municipalities. In 2016, the other 140 municipalities together had 101,823 class 3 establishments on their territory. In addition, no fewer than 96 of the responding municipalities indicated that they were aware of a total of 6,915 establishments that had not been granted a permit while being subject to a permit or reporting requirement. In 2015, this figure was 9,176 and in 2014 it was 2,847. The remaining 86 municipalities indicated that they did not know the

number of unlicensed establishments or that they did not have unlicensed establishments on their territory.

The data on the number of nuisance-causing class 2 establishments revealed whether or not the municipalities complied with the provisions of the Environmental Enforcement Decree concerning the appointment of a minimum number of supervisors within their own municipality, police district and/or the inter-municipal associations. It can be concluded that a minimum of 14% and a maximum of 20% of the responding municipalities did not have sufficient supervisors at their disposal in 2016. Eighteen of the 182 responding municipalities even had no supervisor at all at their disposal in 2016. If the number of nuisance-causing establishments is not precisely or insufficiently known, the number of supervisors that a municipality must have at its disposal can also be determined on the basis of the number of inhabitants. If this criterion is applied, 2% of municipalities with more than 30,000 inhabitants did not yet comply with the relevant provisions of the Environmental Enforcement Decree in 2016.

With regard to municipal supervisors, it was found that a total of 191 municipal supervisors were appointed in 2016 within 132 municipalities with only municipal supervisors who together deployed a total of 38.77 FTEs on environmental enforcement duties. There were 18 municipalities without a municipal supervisor. Compared with 2015, there was both a decrease in the number of supervisors and a decrease in the total number of FTEs deployed on environmental enforcement duties. The average amount of time spent per municipal supervisor on environmental enforcement duties in 2016 was 0.20 FTE, which means that the average supervisor spends 20% of their time on environmental enforcement duties. In 2015, the average time spent per supervisor was 0.22 FTE, and in 2014 it was 0.25 FTE per supervisor. By way of comparison, the average time spent by the regional supervisor in 2016 was 0.24 FTE and 0.71 FTE by the local police supervisor.

In 2016 a total of 3,561 environmental enforcement inspections – of which almost 66% were carried out in response to complaints and reports – were carried out by

the 191 municipal supervisors. This is a decrease compared with the 5,661 inspections carried out by 263 supervisors in 2015. The aforementioned comment regarding the response rate also applies here. Data on the number of inspections were provided by 182 responding municipalities in 2016, while in 2015 these were based on 255 responding municipalities. The average number of environmental enforcement inspections per supervisor was 18 in 2014 and, with 19 inspections per supervisor in 2016, remained the same as in 2015. The average number of inspections per FTE also increased from 87 inspections in 2015 to 92 inspections per FTE in 2016. In 2014, this amounted to 81 inspections per FTE.

To organise environmental enforcement within inter-municipal associations, it was found that 62 municipalities made use, either in part or in whole, of four inter-municipal associations for the organisation of their environmental enforcement activities in 2016. This means that 20% of all Flemish cities and municipalities rely in one way or another on an inter-municipal association for the enforcement of environmental regulations on their territory. A total of 15 supervisory directors were appointed within these four inter-municipal associations and a total of 4.01 FTEs carried out environmental enforcement duties. These supervisors carried out 207 environmental enforcement inspections.

## 5.2 INSTRUMENTS

The third chapter of the present Environmental Enforcement Report 2016 discusses the use of the separate environmental enforcement instruments in 2016.

### Inspections and violations

In 2016, a total of 40,337 environmental enforcement inspections were carried out by regional supervisors, provincial supervisors, municipal supervisors and local police supervisors. This is a decrease compared with the 48,419 environmental enforcement inspections carried out in 2015, but the number still remains above the level of 2014, when 36,921 environmental enforcement inspections were carried out.

In 83% of all environmental enforcement inspections carried out, no violations were found. An infringement was detected in only 6,757 inspections. Violations were mainly established when the municipal supervisors carried out inspections. Almost half of all inspections carried out by municipal supervisors detected a breach of the regulations. For local police supervisors, this ratio is only 1 in 5, despite the fact that 77% of inspections were carried out on the basis of complaints and reports. Only in 13% of the inspections carried out by regional supervisors was an infringement detected.

In 2015, 77% of all inspections carried out did not detect a breach. In 2014 this was 73%, and in 2013 and 2012 only 63% in the total number of inspections carried out. This means that the fact that an infringement was found in approximately 33% of environmental enforcement inspections has changed to an infringement in fewer than 20% of the environmental enforcement inspections. In recent years, therefore, there have been fewer and fewer inspections in which violations have been detected. This change could indicate an increased level of compliance or the lack of a risk-based approach.

No further action was taken with regard to the violation found in 5% of a total of 6,757 inspections where a violation was found. This is a slight decrease compared with the 2% in 2015, but still an improvement compared with the data in the Environmental Enforcement Report 2014 and 2013, when no further action was taken with regard to the violation found in 9% and 15% of the inspections where a violation was found.

As in 2015, the result of just 1% of the total of 40,337 environmental enforcement inspections carried out in 2016 was unknown. This is a decrease compared with 2014 and 2013, when the ratio was 5% and 11.5% respectively. This decline indicates a continued improvement in the monitoring by the supervisory authorities.

### Recommendations and warnings

In 2016, a total of 6,299 recommendations were formulated by the different supervisors for a total of 33,580 inspections during which no breach was identified. This is an application rate of 19%. In 2014, this percentage was 7% (in total 5,152 exhortations) and in 2015 14% (in total 5,152 exhortations). As in previous years, the regional supervisory bodies, with the exception of VAZG, used the recommendation instrument significantly less than the municipal supervisors and the local police supervisors.

The warning instrument was also widely used in 2016. A warning was issued in 58% of all inspections where a violation was found. In total, as many as 3,924 warnings were formulated in 2016 during 6,757 inspections where an infringement was found. In 2015 and 2014, this ratio was 81% and 47% respectively. Compared with 2015, this means a considerable decrease in the percentage share of warnings in relation to the number of inspections where an infringement was found, but the share still remains above the level of 2014.

## Incident reports and official reports

Compared with the other instruments, we observe that in general, as in previous years, the incident report instrument was not used often in 2016. A total of 214 incident reports were drawn up. However, this is a further increase compared with the 59 and 199 incident reports produced by the supervisory bodies in 2015 and 2014 respectively. The percentage of use of the instrument in relation to the number of inspections in which an infringement was detected has increased by 1% each year since 2014, reaching 3% in 2016.

In 2,317 of the total of 6,757 inspections where a breach was identified, an official report was drawn up in 2016. This is a percentage of 34%. Compared with the percentage ratio of 26% in 2015, a percentage increase in the number of inspections in which official reports were drawn up can be noted, despite the fact that in absolute terms the number of official reports drawn up fell from 2,890 in 2015 to 2,317 in 2016. This can be explained by the fact that the number of inspections in which an infringement was detected fell from 11,196 in 2015 to 6,757 in 2016, i.e. 40% fewer, while the absolute number of official reports only decreased by 20% compared with 2015. In 2014, an official report was drawn up in 28% of the total number of inspections in which an infringement was detected, i.e. 2,796 of a total of 9,986 inspections. With regard to the use of the official report instrument, it can also be established for 2016 that 45%<sup>52</sup> of the official reports drawn up were priority official reports pursuant to the 'Priority Memorandum on the prosecution policy for environmental law in the Flemish Region'.

## Administrative and safety measures

In 2016, a total of 380 administrative measures were imposed by the supervisors. This is a decrease compared with the 585 administrative measures imposed in 2015 and the 447 administrative measures imposed in 2014.

However, in percentage terms, compared with the number of inspections where an infringement was detected, the number of administrative measures imposed remains more or less the same. In 2016, the ratio was 6%, in 2015 and 2014 it was 5%. In addition, it was found that 10% of the administrative measures imposed in 2016 were not implemented within the time limits imposed. In 2015, this percentage was 23% and in 2014 it was 15%. These figures seem to indicate that the implementation of administrative measures has improved over the last year. Regional supervisors can combine their imposed administrative measures with an administrative penalty payment. In 2016, this instrument was used once by one body, namely ANB. The administrative penalty payment was not actually collected.

In 2016, 33 appeals were lodged with the minister against decisions containing administrative measures. This is a decrease compared with the 43 appeals lodged in 2015 and falls below the level of the 38 appeals lodged in 2013. The appeal ratio was 9% in 2016. 31 of the 33 appeals lodged in 2016 were declared admissible. For 26 of these appeals, a judgement was given within the time limit. For the other five cases, the period within which the minister must take a decision had not yet expired at the time of the report. 35% of the decisions were unfounded appeals, 35% of the decisions were partially justified and 12% were fully justified. 19% of the appeals were declared devoid of purpose.

In 2016, 11 appeals were lodged against dismissed requests for the imposition of administrative measures. In 2015 and 2014, these figures were 5 and 10 respectively. Nine of the appeals lodged in 2016 were declared admissible, of which three were upheld as justified and three were declared unfounded.

A total of 80 safety measures were imposed in 2016. This is an increase compared with the 130 and 97 safety measures imposed in 2015 and 2014 respectively. Most of the safety measures are imposed by the municipal supervisors.

---

<sup>52</sup> This figure is somewhat distorted by the fact that some services effectively draw up priority official reports but do not identify them as

such. It can be assumed that the share of priority official reports compared to the share of non-priority official reports is higher in reality.

### 5.3 IMPOSITION OF SANCTIONS

In the section on criminal sanctions in 2016, chapter 4 reveals that 4,589 Environmental Enforcement cases were recorded by the criminal department of the public prosecutor's offices in the Flemish Region. 57% of these cases came from the general police and 39% from the inspection services. In 2015, a total of 5,020 Environmental Enforcement cases were recorded, and in 2014 a total of 5,048 cases were recorded.

In more than 48%, or 2,213 cases, of the total number of Environmental Enforcement cases recorded by the criminal departments of the public prosecutors of the Flemish Region in 2016, the main indictment code related to the waste theme. Emissions and environmental law cases represented 11% and 15% respectively of the total number of cases in 2016. In addition, 22% were related to permits and just under 4% to manure. These ratios are more or less the same as those in the Environmental Enforcement Report 2015 and the Environmental Enforcement Report 2014.

In 2016, 1,621 cases related to illegal dumping. This means that a significant proportion of the total number of cases recorded by the criminal divisions of the public prosecutors in the Flemish Region related to illegal dumping, namely almost 35%. This trend can also be seen in the previous environmental enforcement reports.

Chapter 4 also shows that more than 27% of the total number of Environmental Enforcement cases recorded by the criminal prosecution offices of the Flemish Region were still under preliminary investigation on the extraction date. In addition, 24% of cases had already been dismissed without further action (dismissal for reasons of expediency or technical reasons), 2.7% had proposed an amicable settlement and 2.94% of the total number of cases had already been subpoenaed on the extraction date. Furthermore, 38% of the total number of Environmental Enforcement cases had already been transferred to the competent service on the extraction date, with a view to imposing an administrative sanction.

The percentage of the total number of Environmental Enforcement cases referred to the competent service with a view to imposing an administrative sanction has risen sharply since the Environmental Enforcement Decree came into force. In 2009, this percentage was almost 10%, in 2010 15%, in 2011 26%, in 2012 28%, in 2013 27%, in 2014 22%, in 2015 31% and in 2016 38%.

With regard to the grounds for dismissal, 23% of the 1,089 Environmental Enforcement cases that had already been dismissed on the extraction date were dismissed for reasons of expediency. In addition, 77% were dismissed for technical reasons. In 2015, 29% had been dismissed on the extraction date for reasons of expediency and 71% for technical reasons. In 2014, this ratio was 33% and 67%. This shows that fewer and fewer cases are being dismissed for reasons of expediency.

With regard to the administrative sanctions, chapter 4 reveals that LNE-AMMC received 1,991 official reports in 2016 from the criminal divisions of the public prosecutors in the Flemish Region with a view to imposing an alternative administrative fine. In 2014 and 2015, 1,693 and 1,932 official reports respectively were received. This number has continued to increase since the Environmental Enforcement Decree came into force, although differences can still be observed between the various public prosecutors' departments for the percentage of official reports in relation to the total number of recorded cases referred to LNE-AMMC. 44% of the cases submitted to LNE-AMMC in 2016 were official reports drawn up by the local police. In addition, 46% related to waste.

In 2016, LNE-AMMC processed 2,297 cases referred by the public prosecutors. In 1,083 of these cases an alternative administrative fine was imposed. In 371 cases it was decided not to impose a fine and in 1,056 cases an administrative transaction was proposed. 843 transaction proposals were paid in 2016. An expropriation of unlawful material benefits was imposed

in 89 out of a total of 1,083 imposed alternative administrative fines.

In general, the LNE-AMMC received a total of 11,756 official reports from the public prosecutor's offices since the entry into effect of the Environmental Enforcement Act. Between 1 May 2009 and 31 December 2016, a decision was reached in 83.8% of these 5,483 cases. 1,790 alternative administrative fines were imposed in this period. During this period, 5,483 alternative administrative fines were imposed. In addition, in 1,790 cases it was decided not to impose a fine or it was established that the official report did not fall within the scope of the Environmental Enforcement Decree.

In addition, in 2016 LNE-AMMC received 131 incident reports with a view to imposing an exclusive administrative fine for the identified environmental infringement in question. Most of these incident reports, i.e. more than 93%, were drawn up by regional supervisors. It was also found that 70% of these incident reports concerned environmental management and 14.5% concerned permits.

In 2016, LNE-AMMC took 100 decisions regarding identified environmental infringements. An exclusive administrative fine was imposed for almost 32% of these decisions, while it was decided not to impose a fine in 6 cases. In addition, 92 administrative transactions were proposed. In 2016, 62 transaction proposals were paid. An expropriation of unlawful material benefits was imposed for just one out of a total of 32 imposed exclusive administrative fines.

In 2016, appeals were lodged with the Environmental Enforcement Court against 140 of the 1,083 alternative fines imposed by the LNE-AMMC, which means an appeals percentage of 13%. Compared with 2015 and 2014, the appeal percentage against LNE-AMMC's decisions under the alternative administrative fines remained more or less stable. In the Environmental Enforcement Report 2015 the ratio was 11%, and in 2014 it was 12%.

In 2016, the Environmental Enforcement Court handed down a total of 133 judgments concerning appeals against alternative administrative fines imposed by LNE-AMMC. 18% of the appeals were declared inadmissible, almost 36% of the appeals were declared unfounded and 9% of the appeals were declared fully or partially well founded with the reduction to or annulment of the fine as a result. In 4% of the judgments in 2016, an interlocutory judgment was handed down in 2016. If one looks at the period from the entry into force of the Environmental Enforcement Court up to and including 2016, an appeal percentage of slightly more than 10% can be established, given that a total of 602 appeals were recorded by the Environmental Enforcement Court and LNE-AMMC imposed a total of 5,725 alternative administrative fines in that period. In the same period, 456 (interim) decisions were taken by the Environmental Enforcement Court, which represents almost 76% of the appeals recorded.

With regard to the exclusive administrative fines imposed by LNE-AMMC, the Environmental Enforcement Court received two appeals in 2016 and four decisions were taken by the Environmental Enforcement Court in 2016. LNE-AMMC imposed 32 exclusive administrative fines, bringing the appeal rate to 6%. One appeal was upheld in whole or in part with a reduction or remission of the fine and one interlocutory judgment was passed.

In 2015 the Environmental Enforcement Court received an appeal against one of the total of 68 exclusive administrative fines imposed by LNE-AMMC for environmental infringements. This means that the "appeal rate" in 2015 was only 1%. In 2014, 20 exclusive administrative fines were imposed by LNE-AMMC and eight appeals were submitted to the Environmental Enforcement Court, signifying an appeal rate of 40%. If one looks at the period from the entry into force of the Environmental Enforcement Court up to and including 2016, an appeal percentage of less than 11% can be established, given that a total of 28 appeals were recorded with the Environmental Enforcement Court and a total of 263 exclusive administrative fines were imposed by LNE-AMMC in that period.



In total, since its entry into force up to and including 2016, the Environmental Enforcement Court received 28 appeals with regard to exclusive administrative fines imposed by LNE-AMMC and 26 (interim) decisions were taken in the same period, which represents almost 93% of the total number of appeals.

As regards VLM's competence to impose administrative fines in 2016, the last part of chapter 4 shows that 72 field incidents reports were made and 2,664 fines were imposed.

## 5.4 RECOMMENDATIONS

The recommendations below are formulated on the basis of the findings made in this environmental enforcement report and to optimise the environmental enforcement policy. A number of these recommendations were already formulated in the previous environmental enforcement reports, but they are still relevant given the figures for 2016 and are therefore repeated here.

### I. Local supervisors

The Environmental Enforcement Decree contains provisions for the organisation of local enforcement and the appointment of local supervisors and provincial supervisors. As in previous reports, the figures in this environmental enforcement report give rise to the formulation of recommendations to optimise local environmental enforcement.

In general, the first comment to be made is on the response rate for 2016. The VHRM received a response from 182 mayors and municipalities in the Flemish Region (out of a total of 308). This represents a response rate of 59%. Since the first environmental enforcement report (MHR2009) was published, the VHRM has seen a steady increase in the response rate, which, however, fell sharply in 2016. While this response rate was 60% for MHR2009, it gradually increased to 79% in 2016 before falling back below the 2009 level in 2016. The size of the response rate is related to the representativeness of the data in the environmental enforcement reports and the correctness of the picture that can be given of the different facets of the local environmental enforcement landscape.

In order to ensure the best possible representativeness, the VHRM therefore hopes to raise the response rate to above the level of before 2016 for subsequent reports. The VHRM is investigating how this can be achieved.

#### 1. Appointment of a local supervisor

The municipalities have the possibility to appoint supervisors within their own municipalities, but they can also choose to have a supervisor appointed within an inter-municipal association or within their local police district. The annual survey showed that there are still – in 2016 even more than in previous years – responding municipalities that do not have one / sufficient supervisors at their disposal. In 2016, this was the case for a minimum of 14% and a maximum of 20% of the number of responding municipalities. In 2015 and 2014, these ratios were respectively at least 7% and at most 8% and at least 6.5% and at most 10.5%.

It is therefore once again recommended that these municipalities also comply with the provisions of the Environmental Enforcement Decree.

#### 2. Appointment of provincial supervisors

Only two of the five Flemish provinces have appointed provincial supervisors. This has remained unchanged since 2015. It is therefore once again recommended that the provinces that have not yet appointed provincial supervisors in accordance with the Environmental Enforcement Decree still do so.

#### 3. Expressing supervisors in FTEs

As in previous years, the figures in this environmental enforcement report also show that appointed supervisors can only spend a limited part of their time on environmental enforcement duties. In 2016, the regional supervisor was able to deploy an average of 0.24 FTEs on environmental enforcement tasks, while the municipal supervisor was able to deploy 0.20 FTEs. In 2016, local police supervisors were able to deploy 0.71 FTEs on environmental enforcement tasks. In 2015 and 2014, these figures were 0.24 FTEs for the regional supervisor, 0.22 FTEs and 0.25 FTEs for the municipal supervisor and 0.44 FTEs and 0.47 FTEs respectively for the local police. The fact that the appointed supervisor cannot be

involved in environmental enforcement duties on a full-time basis naturally also affects the number of inspections that can be carried out. It is therefore once again recommended that the obligatory number of supervisors per municipality should no longer be expressed in terms of numbers in the Environmental Enforcement Decree and the Environmental Enforcement Order, but should be expressed in FTEs that can be deployed on enforcement activities. Otherwise, there could be a risk that local supervisors will be appointed on paper but that they will de facto be able to spend relatively little time on enforcement duties. Such an approach would require an amendment of the legislation and could be linked to a funding scheme that still needs to be developed but for which a statutory basis has already been provided in the Environmental Enforcement Decree (Art. 16.3.4).

#### 4. Promoting inter-municipal collaboration

Based on the data provided by the responding inter-municipal associations, it was calculated that in 2016, 20% of all Flemish cities and municipalities rely in one way or another on an inter-municipal association for the enforcement of environmental regulations on their territory. This is a slight increase compared with the percentage of 17% in 2015. Collaboration via an inter-municipal association can generate economies of scale and guarantee a higher level of expertise, through specialisation, for example. It is therefore again recommended that the possibilities for inter-municipal cooperation be further explored.

## II. Risk-oriented supervision and programme-based enforcement

The objective of risk-oriented supervision and programme-based enforcement is to use financial resources as effectively and efficiently as possible in order to achieve the highest environmental return. This means, among other things, that enforcement should be used primarily where the compliance behaviour is low and where the environmental damage in the event of a violation could be relatively large or even irreparable. So

this not only calls for enforcement activities that enforce reactively (in response to complaints) but also requires supervisory authorities to develop a programme on their own initiative, for example using a risk analysis, and organise enforcement activities on the basis of the expected risks and the associated potential environmental gains that may be achieved.

#### 5. Focus on risk-oriented supervision

Chapter 3 revealed that, out of a total of 40,337 environmental enforcement inspections carried out by supervisors in 2016, no violations were established in 83% of these cases. Since 2012, when no infringement was found in 63% of the inspections, this means that infringements were identified in approximately 1 in 3 of the environmental enforcement inspections and over the years that has changed to finding an infringement in less than 1 in 5 environmental enforcement inspections. Notwithstanding the fact that this decreasing ratio could indicate a high degree of compliance and that the presence of supervisors in the field also has an impact on compliance behaviour, this high percentage of inspections where no violation could be identified may also indicate a lack of a risk-based approach and a lack of targeted supervision. In order to use the limited resources more efficiently and effectively, it is therefore recommended that regulatory bodies focus (more) on a risk-oriented approach.

#### 6. Importance of programme-based enforcement

It is important to find a balance between programme-based and reactive supervision (in response to complaints and reports). In the absence of sufficient resources, there is a danger that only reactive enforcement can be maintained. In addition, it is necessary to support the trend towards risk-oriented enforcement, which has already been used by many supervisory bodies. This recommendation remains in place for 2016.

## 7. Focus on tackling unlicensed establishments

For 2015, 160 out of a total of 235 responding municipalities had reported 9,176 unlicensed establishments on their territory. The data provided showed that, in 2016, a total of no fewer than 6,915 nuisance-causing but (wholly or partially) unlicensed/reported establishments were active in 96 of the 182 responding municipalities. This concerns establishments that, on the basis of the VLAREM regulation, can be classified as being a class 1, class 2 or class 3 establishment, but have not yet been granted a permit and were therefore not operated legitimately. These municipalities are aware of environmental legislation violations. It is therefore recommended, once again, that efforts are focused primarily on these violations. The obligation for licensing or notification is, after all, the cornerstone of the administrative environmental law because conditions can be imposed via the licence or notification with a view to improving the environment quality and reducing nuisance.

## III. Monitoring

Effective monitoring is necessary to organise enforcement. Not only in the context of risk-oriented and programme-based enforcement, but also to encourage proper reporting and monitoring. The following recommendations are therefore formulated based on the data in this environmental enforcement report.

## 8. Knowledge of nuisance-causing establishments

An essential condition for programme-based enforcement is that satisfactory accurate information is available regarding the establishments located on one's own territory. The figures for 2016 provided again show that a number of municipalities still have no insight into the number of class 1 (28 out of 182 responding municipalities), class 2 (29 out of 182 responding municipalities) and class 3 establishments (42 of the responding municipalities) on their territory. This has proved to be a sore spot for several years. The same applies to the regional government. The

recommendation needs to be repeated again this year that the number of establishments that require mandatory permits and reporting must be registered (at local level).

Moreover, in view of the downgrading of the class 1 establishments from 23 February 2017 and the shift in the supervision of these establishments from regional to local level, knowledge of the permit or reporting requirements will become even more necessary.

## 9. Use of specific H codes

Based on a comparison of the figures provided by the various regional supervisory bodies and the figures provided by the public prosecutors, it was found – as in previous years – that the specific H codes within the reference numbers are not always used by the regional supervisory bodies. As a result, some cases are included in the figures of public prosecutors in an unidentifiable manner. It is therefore recommended that the various environmental administrations make consistent use of these codes in order to ensure correct data collection and reporting.

## 10. Monitoring Priority Memorandum

The protocol "Priority Memorandum on the prosecution policy for environmental law in the Flemish Region" was drawn up by the VHRM, with the aim of indicating which violations were considered to have priority by a supervisor. The content of the protocol implies that those breaches regarded as a priority should be suitably prosecuted, either via criminal proceedings or at least via administrative sanctions. It is of course important to be able to gain insight into the implementation of this priority memo. This assumes, on the one hand, that all supervisors indicate whether the official report drawn up is a priority or not, and on the other hand, that the sanctioning bodies also indicate the manner in which these official reports considered to be a priority were dealt with, and provide feedback on this to the supervisors. The figures provided show – as in previous years – that not all the bodies involved make a

classification of the official report a priority or do not draw one up, or do not further introduce the data classification into their own monitoring system. This means it is not possible to assess the Priority Memorandum adequately. It is therefore again recommended that all the enforcement bodies involved guarantee the correct implementation and tracking of the Priority Memorandum.

#### 11. Full monitoring and reporting

It is still recommended that the extent to which each enforcement body can ensure full monitoring (internal) and reporting (internal and to third parties, e.g. the VHRM) is investigated, and in particular with regard to the use of each instrument, but also that it is checked and monitored whether the problem has been remedied each time and when the enforcement process is terminated. Such monitoring provides a picture of the deployment and effectiveness of the instruments.

#### IV. Failure to implement administrative measures on time

Imposing administrative measures is intended to end an illegal situation within the imposed time limit. In 2016, 10% of the imposed administrative measures were not implemented within the time limit set by the supervisor. Although this already represents an improvement compared with 2015, when almost 25% of the administrative measures imposed were not implemented within the period imposed by the supervisor, this 10% share remains undesirable. On the one hand, this may undermine the authority of the administrative authorities that imposed the measures but, on the other hand, prolongs an illegal situation. It is therefore again recommended that the competent body uses the available instruments to enforce an imposed administrative measure within the required time limit. For this purpose, the supervisor can make use, among other things, of administrative coercive measures, whereby the supervisor himself remedies the situation and recovers the costs from the offender. The regional supervisor can also make use of the administrative

penalty payment instrument, which is linked to the administrative measure. Finally, the supervisor can also draw up an official report if an administrative measure is not implemented. In such cases, it is recommended that the Public Prosecutor brings criminal proceedings before the criminal court in order to send a clear signal to hard-line offenders.

As mentioned above, the regional supervisor also has the administrative penalty payment instrument as a back-up measure. Local supervisors are not able to use this instrument for the time being. However, approximately 18% of the administrative measures imposed by the municipal supervisors and 6% of those imposed by the local police supervisors in 2016 were not implemented on time. The Environmental Enforcement Report 2015 therefore recommended that the instrument of administrative penalty payments should be made available to all supervisors.

Based on the figures in this report, this recommendation remains valid. However, it can be stated that this recommendation was included in the evaluation of administrative penalty payments within the Flemish environmental enforcement policy, as communicated to the Government of Flanders on 27 January 2017.

#### V. Environmental enforcement as a task for the police force

On the basis of this environmental enforcement report, we can also conclude that environmental enforcement and supervision is a responsibility that is not only embraced by, for example, regional authorities and municipalities; the various police forces also play an important role with regard to environmental enforcement. In addition to the activities of the federal police concerning proactive inspections in the context of waste shipments, many environmental inspections are carried out and official reports drawn up by the general police services, as explained in chapter 2. We also see considerable efforts made by the appointed local supervisors within the police force. It is therefore

recommended, like last year, that the police force are able/will continue to carry out these duties.

## VI. Vaststelling sluikstorten

As in previous years, the figures from the public prosecutor's offices show that illegal dumping is the most frequently identified offence in the Flemish Region. After all, in 2014, 2015 and 2016 35% of all Environmental Enforcement cases recorded by the public prosecutors in the Flemish Region concern illegal dumping. These are often cases that can also be categorised as local nuisances and should preferably be processed at a local level by means of a so-called GAS fine. The reason why

these cases are still referred to the public prosecutor's office and, where appropriate, to LNE-AMMC for an administrative fine, is that not all municipalities have provided for (such) nuisance cases in their police regulations, or that the infringement is not reported pursuant to the GAS regulations. It is therefore recommended that municipalities include provisions to establish and report illegal dumping in their GAS regulations. As recommended in the Environmental Enforcement Report 2015, research started in 2016 into how these violations, if included in GAS regulations, can also be identified and reported by regional supervisors.

## 6 ENVIRONMENTAL ACTIVITIES OF THE FLEMISH HIGH ENFORCEMENT COUNCIL FOR SPATIAL PLANNING AND THE ENVIRONMENT IN 2016

In the last, new, chapter, the Flemish High Enforcement Council for Spatial Planning and the Environment wishes to report on its own work in 2016 on environment-related issues. Activities were carried out, both in the plenary meeting and in the working groups, that could benefit environmental enforcement in the Flemish Region. The activities can, of course, be framed within the VHRM's strategic and operational plan, but can also be related to certain recommendations formulated by the VHRM in previous environmental enforcement reports and in the Environmental Enforcement Programme 2015-2019.

### I. Enforcement Network Day follow-up phase

At the end of 2015, the VHRM organised an enforcement network day for spatial planning enforcement bodies and environmental enforcement bodies. The results of this network day were discussed and analysed within the VHRM. Subsequently, feedback was provided to those who took part in the network day, information on training days was disseminated, and a test facility was organised for [www.milieuhandhaving.be](http://www.milieuhandhaving.be) (a guide website for environmental complaints), including the optimisation of the website.

### II. Exchange of information study

The Environmental Enforcement Programme 2015-2019 focused, among other things, on the importance of the exchange of information between the enforcement bodies. The programme highlighted the need to create a framework in which information between the different services can be easily accessed. In 2016, the VHRM therefore started outsourcing a study into the possibilities and optimisation of information exchange in the context of environmental enforcement. The study is designed, among other things, to map out and gain an insight into the relevant regulatory framework and the information flows that may/should arise between the enforcing authorities. It is necessary to examine which restrictions exist in order to proceed to a more efficient exchange of information. Once these limitations are known, solutions must be formulated, either by following specific procedures provided for in the regulations, or by (realistic) proposals to adjust certain rules, or by drawing up templates/model forms, etc.

In preparation for the outsourcing, a list was drawn up of the various information requirements of the enforcing bodies.

This study was contracted out as a public contract to Hasselt University in 2017 and will be completed in the course of 2017.

The outcome of the study should provide an overview of the legal possibilities and limitations of information-sharing in the given context, and also allow practical tools to be developed to enable a smooth exchange of information.

### III. Salduz workshop

In January 2016, the VHRM organised a workshop for the enforcement bodies dealing with Salduz. The Salduz ruling of 27 March 2008 of the European Court of Human Rights and its pursuing case law has undeniably caused controversy in police circles, the judiciary and among the supervisory authorities. In the meantime, the Salduz obligations have been further extended at European level. The European Directive 2013/48/EU had to be transposed into Belgian law no later than 27 November 2016. The VHRM therefore considered it appropriate to focus on this theme in a practical and participatory workshop. The workshop gathered together a series of practical experiences, points of view and visions for the future from the perspective of the enforcement of spatial planning and the environment.

### IV. Customer-focused enforcement conference

On 22 November 2016, the VHRM organised its autumn conference 'Customer-focused Enforcement' in Mechelen for 150 enforcing bodies in the Flemish Region.

The aim of this conference was to organise an interactive study day with the emphasis on practical support for supervisors and enforcers, by means of various workshops on customer orientation. The participant had the choice of the following workshops:

- *Dealing with aggression - Aggression in the workplace: discovering verbal and/or physical communication. When you have to report bad news, it may be that a conversation is less than respectful. When dealing with aggressive people, however, it is important to avoid a further escalation of the situation. In this workshop the speaker will introduce the theme. Cases are discussed by means of simulations with an actor.*
- *Code of Conduct for Enforcement Officials - Does it make sense to have a code of conduct, and what does a code of conduct mean? For example, can I accept gifts or do I have to refuse a cup of coffee? In small groups, work is done on a certain theme.*
- *Inter-cultural communication - As an enforcer, you come into contact with the diversity of our society during your visits to private individuals and companies. How do you deal with this diversity? How do I make it clear that the legislation must be complied with? In this workshop you will receive useful information for framing specific situations and for dealing with them constructively.*
- *Clear language - As an enforcer, you often have contact with citizens and businesses. This may involve providing advice over the telephone or conveying bad messages such as in the event of a violation or in the event of an inspection on the ground where you have to call on the citizen or the company to comply with the legislation. It is also possible that you will have to disappoint the citizen if a company (about which the citizen had a complaint) still meets all the conditions, or if you grant the company a longer period in which to put itself in order. In this workshop you will be given practical tips on giving messages.*



In addition, a fair was organised throughout the study day to enable the enforcers to get to know the various training institutes and their offerings.

Following on from this study day, it was also decided that the VHRM will take further action to support the various bodies in the enforcement landscape, in particular by drawing up a code of conduct for enforcers in 2017.

#### V. Preparing the Environmental Enforcement Report 2015

The VHRM is in close contact with the various enforcement bodies in drawing up the enforcement reports. In 2016, the VHRM also conducted a digital survey of all enforcement bodies in the context of drafting the environmental enforcement report.

Based on the figures obtained, the permanent secretariat of the VHRM prepared a draft, which was then discussed and amended by the plenary meeting of the VHRM. In this way, the VHRM provides an overview of the enforcement policy that has been implemented and evaluates it. In addition, as in this environmental enforcement report, policy recommendations were formulated.

The Environmental Enforcement Report 2015 was shared with the Government of Flanders on 7 October 2016.

In 2016 the questionnaire for the preparation of this environmental enforcement report was also discussed and expanded in relation to previous years.

#### VI. Updating the Environmental Enforcement Programme 2015-2019

The Environmental Enforcement Programme 2015-2019 was approved by the VHRM in July 2015. The programme was approved by the Government of Flanders on 22 April 2016 on the condition that the VHRM would update the programme.

The VHRM therefore considered this update in 2016, with a focus on environmental enforcement, risk-oriented enforcement, broad information sharing and supervision of class 2 establishments. Methodologically, it was decided not to organise a new survey among the enforcement bodies, but to update the original text without changing the individual programmes.

The update has taken place mainly through the addition of a new section 'Policy recommendations related to the wider enforcement landscape', which addresses the following issues:

- Risk-based supervision
- Elaboration of quality supervision for class 2 companies
- Alignment between the programmes and activities of the enforcement bodies
- Alignment of the environmental permit enforcement system with the permit evaluation system

The updated version approved by the VHRM was submitted to the office of Minister Schauvliege on 15 December 2016.

## VII. Advice

The VHRM wishes, among other things, to support the Government of Flanders and the Flemish Parliament by formulating recommendations on matters relating to the enforcement of environmental legislation.

### - Advice on noise standards

Following the study on noise standards, outsourced and supervised by the LNE department, and the study day 'Noise standards for music activities - 3 years later', the VHRM received a formal request in 2016 for advice on the evaluation of the noise standards for music from the office of Minister Schauvliege. Within the VHRM, the opinion was prepared by an expert group.

### - Advice on priorities in criminal prosecution

In 2016, the VHRM was asked by the office of Minister Schauvliege, within the framework of the project 'Coordination of Flemish Enforcement' set up by Prime Minister Bourgeois, to list the violations that should preferably be prosecuted under criminal law in relation to the environment. One of the objectives of the project is to examine what the priorities should be in criminal prosecution.

## VIII. Integrating environment and spatial planning

A proposal was developed for the definition of further priorities, at the interface between environment and spatial planning, as provided for in the Spatial Planning Enforcement Programme. These priorities were presented to Minister Schauvliege.

In addition, the Environmental and Spatial Planning Working Group of the VHRM was also active in 2016 on the further integration of the environment and spatial planning. In this way, the VHRM tries to offer a forum for coordinating environmental enforcement policy and spatial planning enforcement policy in the context of environmental policy. This working group also supervised the preparation of the first Spatial Planning Enforcement Report 2015 in preparation for its discussion in plenary meetings.

## IX. Tools and guidelines for enforcers

In addition to the activities stipulated by decree, the VHRM works on guidelines and tools to support the practice of enforcement. The result of this work will be posted on the VHRM website as soon as it has been completed. In addition, the VHRM investigates certain issues, problems and obstacles that arise in enforcement practice. In this way, the VHRM is trying to create greater support for enforcement.

The following list shows the analyses and tools that were drawn up in 2016.

- Guidelines for drawing up a request for authorisation of admission in the context of art. 16.3.12 of the Decree on general provisions on environmental policy;
- Guidelines for drawing up a consent form for the resident in the context of art. 16.3.12 of the Decree on general provisions on environmental policy;
- Memorandum on the conditions for access to occupied premises;
- Memorandum on the scope of the right of supervision;
- Memorandum on the scope of the right to police assistance;
- Examination of the relationship between supervisors - AGP/OGP;
- Investigation into the approach to problems concerning the recovery of costs in the clearance of watercourses;
- Study on the identification by regional supervisors of illegal dumping and problems arising in the context of the GAS regulations in the municipalities;
- Input for the registration document 'Clean West Flanders Enforcement' on the approach to illegal dumping, drawn up by the Province of West Flanders.

#### X. Inter-municipal cooperation

For a number of years now, the VHRM has been recommending in the environmental enforcement report that inter-municipal cooperation on environmental enforcement should, where possible, be encouraged. In 2016, the VHRM therefore decided to investigate how the VHRM itself could implement this recommendation and what role the VHRM could play for the inter-municipal associations. To this end, Vlinter, the partnership of the eleven Flemish inter-municipal associations for regional development and the Association of Flemish Cities and Municipalities, was invited to a discussion within the framework of a thematic meeting. The fact that Vlinter already functions as a consultation platform for the inter-municipal associations means that the VHRM as a consultation forum can offer little extra added value for the inter-municipal associations.

#### XI. Monitoring

In 2016, the VHRM regularly asked about the possibility of further harmonising registration with public prosecutors with the Environmental Enforcement Decree and the Flemish environmental enforcement landscape (such as, for example, the recording of priority and non-priority official reports in the context of the Priority Memorandum on prosecution policy for environmental law in the Flemish Region in 2013 and the drawing up of a separate notification code for failure to implement administrative measures).

In 2016, following the final report 'Administrative interactions between the Government of Flanders and municipalities of the workplace reviewed' and the remark 'Provide a link with existing local systems for the exchange of information', a registration form/template was developed. It forms a dynamic template (Excel file) that the bodies questioned in the context of the environmental enforcement report can use on an optional basis to record the data that will be requested annually by the VHRM. This can make monitoring, recording and reporting easier and more transparent for those surveyed. It is a tool that the VHRM will offer to those surveyed. In this way the VHRM wishes, as recommended in the Environmental Enforcement Report 2015, among other things, to contribute to the further development of good monitoring and full reporting.

## XII. International contacts

In 2016, the VHRM continued to monitor developments in the foreign enforcement landscape.

On 17 and 18 February 2016, in collaboration with the VHRM, the final conference 'Combating Environmental Crime: Priorities and Opportunities for further EU Action' of the project European Union Action to Fight Environmental Crime (EFFACE) was organised. In 2016, the VHRM also remained part of the European network IMPEL (European Union Network for the Implementation and Enforcement of Environmental Law)

## XIII. Communication, internal and external

During the plenary meetings and in the working group meetings, the VHRM also functioned in 2016 as a consultation forum for the exchange of ideas, the sharing of knowledge, the transfer of knowledge and the exchange of information. This included regular reports on the state of affairs regarding the Prosecution Policy working group, the Framework Memorandum on Integrated Safety and the National Safety Plan, the project Coordination of Flemish Enforcement, international affairs (INECE, IMPEL, EnviCrimeNet, INTERPOL, etc.), internal activities and agreements of the members, representatives and deputies of the VHRM, the different approach in enforcement and sanctions, supervision in the port area, supervision of downgraded class 2 facilities, evaluation of the administrative penalty payment, etc.

The VHRM was asked to give a presentation at the study day 'Is green a task for blue' of the Centre for Police Studies. During this presentation, the important role of the police in the enforcement landscape was demonstrated on the basis of the figures from the environmental enforcement reports.

In this way, too, the VHRM aims to create greater support for enforcement.

## 7 ANNEXES

### 7.1 GLOSSARY OF TERMS - ABBREVIATIONS

/	Not available
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.
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)
ANG	Algemene Nationale Gegevensbank (General National Database)
AWV	Agentschap Wegen en Verkeer (Agency for Roads and Traffic)
AWZ	Afdeling Waterwegen en Zeekanaal NV (Agency for Waterways and Sea Canal)
B.S.	Belgisch Staatsblad (Belgian Official Journal)
DABM	Flemish Parliament Act of 5 April 1995 containing general provisions on environmental policy
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.

FTE	Full-time equivalents
GAS	Gemeentelijke Administratieve Sanctie (Municipal Administrative Sanction)
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)
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
RW	Ruimtelijke Ordening (Spatial planning)
SG	Secretary-General of the Department of Environment, Nature and Energy
VAZG	Vlaams Agentschap Zorg en Gezondheid (Agency for Care and Health)
VHRM	Vlaamse Hoge Handhavingsraad voor Ruimte en Milieu (Flemish High Enforcement Council for Spatial Planning and Environment)
VLM	Vlaamse Landmaatschappij (Flemish Land Agency)
VMM	Vlaamse Milieumaatschappij (Flemish Environment Agency)
VVSG	Vereniging van Vlaamse Steden en Gemeenten (Association of Flemish Cities and Municipalities)

## 7.2 LIST OF GRAPHS

- Graph 1: Reason for inspections carried out in 2016 per supervisor
- Graph 2: Total number of inspections broken down by reason (excluding VMM)
- Graph 3: Proactive inspections (reported by drawing up an ECO form) carried out by the federal police in the context of waste shipments on the territory of the Flemish Region in 2016
- Graph 4: Proactive inspections (reported by drawing up an ECO form) carried out by the local police in the context of waste shipments on the territory of the Flemish Region in 2016
- Graph 5: Number and type of environmental enforcement inspections carried out by local police supervisors within the framework of the Environmental Enforcement Act in 2016
- Graph 6: Number of provincial water-awareness employees and number of FTEs they spend on inspections involving non-navigable watercourses
- Graph 7: Response rate in percentages of the mayors of the Flemish cities and municipalities per category of municipalities
- Graph 8: Number of responding mayors who received a request/petition to impose administrative measures and the number of responding mayors who imposed administrative measures in 2016
- Graph 9: Average number of inspections per municipal supervisor
- Graph 10: Average number of environmental enforcement inspections per FTE
- Graph 11: Ratio between priority and non-priority official reports in 2016
- Graph 12: Number of environmental enforcement cases that were recorded by the criminal divisions of the public prosecutor's offices in the Flemish Region in 2016, per reporting authority
- Graph 13: Number of environmental enforcement cases submitted by the Flemish environment services as recorded by the criminal divisions of the public prosecutor's offices in the Flemish Region in 2016 -
- Graph 14: Percentage of environmental enforcement cases recorded by the criminal divisions of the public prosecutor's offices in the Flemish Region, per main charge, for cases in 2016
- Graph 15: Percentage of the number of environmental enforcement cases recorded by charge codes
- Graph 16: State of progress as on 10 January 2017 for environmental enforcement cases recorded by the criminal divisions of the public prosecutor's offices in the Flemish Region in 2016 according to the share of the charge category (waste, manure, licences, emissions and nature protection)
- Graph 17: Number of cases concerning environmental offences received by LNE-AMMC and the number of Environmental Enforcement cases recorded in 2016 by the criminal divisions of the public prosecutors of the Flemish Region, in the 'non-municipal administrative sanction' progress state
- Graph 18: Framework within which an alternative administrative fine was imposed by the LNE-AMMC, with and without a deprivation of benefits
- Graph 19: Framework within which administrative transactions were proposed and paid, by environmental theme
- Graph 20: Framework for proposing and paying administrative transactions, by environmental theme

### 7.3 LIST OF TABLES

- Table 1: Number of supervisors per regional supervisory body in 2014, 2015 and 2016
- Table 2: Efforts of the regional supervisory body related to environmental enforcement duties in 2014, 2015 and 2016
- Table 3: Total number of environmental enforcement inspections that are carried out by supervisors
- Table 4: Efforts related to environmental enforcement duties 2016
- Table 5: Official reports drawn up by police forces for environmental offences in the Flemish Region in 2016
- Table 6: Categories of Flemish police districts, including number of police districts per category and number of respondents per category
- Table 7: Overview of the appointment of local police supervisors and efforts related to environmental enforcement duties in 2016 (per population)
- Table 8: Overview of efforts related to environmental enforcement duties by local police supervisors (according to population) in 2016
- Table 9: Requests/petitions for the imposition of administrative measures received by the mayors of the Flemish cities and municipalities in 2016
- Table 10: Number and type of administrative measures imposed by the mayors of the Flemish cities and municipalities in 2016
- Table 11: Number of responding mayors who received a request to impose safety measures and the number of responding mayors who imposed safety measures in 2016
- Table 12: Number of requests for the imposition of Safety measures received by the mayors of the Flemish cities and municipalities in 2016
- Table 13: Number and type of safety measures imposed by the mayors of the Flemish cities and municipalities in 2016
- Table 14: Number of responding municipalities per category compared to the total number of municipalities per category in 2016
- Table 15: Number of nuisance-causing plants per category of municipalities in 2016
- Table 16: Appointment of local supervisors on the basis of the number of nuisance-causing plants in 2016
- Table 17: Appointment of local supervisors on the basis of the population in 2016
- Table 18: Appointment and amount of time dedicated by municipal supervisors per category of municipalities in 2016
- Table 19: Efforts related to environmental enforcement duties by municipal supervisors per category of municipalities (according to population) in 2016
- Table 20: Number of environmental enforcement inspections carried out by municipal supervisors within the framework of the Environmental Enforcement Act - following complaints and reports and at own initiative in 2016
- Table 21: Comparison between the number of 'inspections during which no breach was identified' and the number of 'inspections during which a breach was identified' for 2016
- Table 22: Number of 'inspections without further action' compared to the total number of 'inspections during which a breach was identified' in 2014, 2015 and 2016
- Table 23: Number of inspections with unknown results in 2016 and their percentage of the total number of environmental enforcement inspections carried out in 2016, 2015 en 2014
- Table 24: Number of 'recommendations' made by supervisors compared to the total number of 'inspections during which no breach was identified'
- Table 25: Number of 'exhortations' formulated by supervisors compared to the total number of 'inspections during which a breach was identified'



- Table 26: Number of 'identification reports' drawn up by supervisors compared to the number of 'inspections during which a breach was identified'
- Table 27: Number of 'official reports' drawn up by supervisors compared to the number of 'inspections during which a breach was identified'
- Table 28: Number of imposed administrative measures compared to the number of inspections during which a breach was identified in in 2014, 2015 en 2016
- Table 29: Types of administrative measures imposed in 2016
- Table 30: Comparison of the decision of the Minister with regard to the appeals against decisions to impose administrative measures that were declared admissible in 2016, 2015 en 2014
- Table 31: Percentage share of appeals against decisions to impose administrative measures in comparison to the total number of administrative measures imposed, by type, in 2016, 2015 en 2014
- Table 32: Number of appeals lodged against refused petitions for the imposition of administrative measures in 2016, 2015 en 2014
- Table 33: Nature of the imposed safety measures
- Table 34: Number of FTEs for environmental public prosecutors
- Table 35: Number of environmental enforcement cases recorded by the criminal divisions of the public prosecutor's offices in the Flemish Region per reporting authority in 2016, 2015 and 2014
- Table 36: Number of environmental enforcement cases submitted by the Flemish environment services as recorded by the criminal divisions of the public prosecutor's offices in the Flemish Region in 2016, 2015 and 2014
- Table 37: Number of environmental enforcement cases recorded by the criminal divisions of the public prosecutor's offices in the Flemish Region, per main charge code, for cases in 2016, 2015 and 2014
- Table 38: Number of environmental enforcement cases recorded by the criminal divisions of the public prosecutor's offices in the Flemish Region in 2016, possibly through addition to a mother case, per judicial district
- Table 39: Cases dismissed with a view to imposing an administrative fine (up to 2014)/with progress state 'non-municipal administrative sanction' and 'municipal administrative sanction' (2016)/since the entry into force of the Environmental Enforcement Decree
- Table 40: Percentage comparison between the data of 2016, 2015 and 2014 per indictment code and the state of progress of the cases in the indictment codes at the extraction date. No consequence includes offender signalling, no consequence, praetorian probation, GAS and non-gas
- Table 41: Reasons for dismissing the Environmental Enforcement cases, received in 2016, in which no further action was taken on 10 January 2017, whether or not by merging with a parent case, by public prosecutor's office (and department)
- Table 42: Resons for dismissal
- Table 43: Official reports received by the LNE-AMMC of the Department of Environment, Nature and Energy from public prosecutor's offices in the Flemish Region in 2016
- Table 44: Percentage share of cases received by the public prosecutor's offices in the Flemish Region in 2016 and referred to the LNE-AMMC
- Table 45: Percentage share of cases referred to the LNE-AMMC since the coming into force of the Environmental Enforcement Act in 2009
- Table 46: Percentage share of the official reports received by the LNE-AMMC in 2016, per enforcement actor
- Table 47: Percentage share of official reports received by the LNE-AMMC in 2016, per environmental theme
- Table 48: Decisions taken by the LNE-AMMC in the context of alternative administrative fines
- Table 49: Identification reports received by the LNE-AMMC per subject, in 2016
- Table 50: Decisions taken by the LNE-AMMC in the context of exclusive administrative fines
- Table 51: Framework within which an exclusive administrative fine was imposed

Table 52: Appeals received against decisions of the LNE-AMMC in the context of environmental offences and environmental infringements by the Environmental Enforcement Court in 2016 and the results of the processing thereof

Table 53: Number and nature of the administrative fines by the Flemish Land Agency

## 7.4 LIST OF RESPONDING MUNICIPALITIES

Aalst	Borgloon	Gavere	Herselt
Aalter	Boutersem	Geel	Herzele
Affligem	Bredene	Geetbets	Heusden-Zolder
Alken	Bruges	Genk	Heuvelland
Antwerp	Buggenhout	Ghent	Holsbeek
Anzegem	Damme	Gingelom	Hoogstraten
Ardooi	De Pinte	Gistel	Horebeke
As	Deerlijk	Gooik	Houthulst
Assenede	Deinze	Haacht	Hove
Balen	Dendermonde	Halle	Huldenberg
Beerse	Destelbergen	Hamme	Hulshout
Beersel	Diepenbeek	Hamont-Achel	Ichtegem
Begijnendijk	Diest	Harelbeke	Ingelmunster
Bekkevoort	Diksmuide	Hechtel-Eksel	Izegem
Beringen	Dilsen-Stokkem	Heers	Jabbeke
Berlare	Drogenbos	Heist-op-den-Berg	Kapellen
Bertem	Duffel	Hemiksem	Kapelle-op-den-Bos
Bever	Edegem	Herentals	Kasterlee
Bilzen	Eeklo	Herenthout	Knesselare
Blankenberge	Evergem	Herk-de-Stad	Knokke-Heist
Bonheiden	Galmaarden	Herne	Koksijde

Kontich	Malle	Oostrozebeke	Staden
Kortemark	Mechelen	Opglabbeek	Steenokkerzeel
Kraainem	Meerhout	Opwijk	Stekene
Kruikebeke	Meeuwen-Gruitrode	Oudenaarde	Tervuren
Laakdal	Menen	Overijse	Tessenderlo
Laarne	Merchtem	Poperinge	Tongeren
Lanaken	Merelbeke	Putte	Torhout
Landen	Merksplas	Puurs	Turnhout
Langemark-Poelkapelle	Mesen	Ranst	Veurne
Lebbeke	Meulebeke	Rijkevorsel	Vilvoorde
Lennik	Middelkerke	Roeselare	Voeren
Leopoldsburg	Mol	Ronse	Vosselaar
Leuven	Moorslede	Roosdaal	Waregem
Lier	Mortsel	Schelle	Wellen
Lille	Nevele	Scherpenheuvel-Zichem	Wetteren
Lokeren	Niel	Sint-Amands	Wielsbeke
Londerzeel	Nieuwerkerken	Sint-Genesius-Rode	Willebroek
Lovendegem	Nieuwpoort	Sint-Katelijne-Waver	Wortegem-Petegem
Lubbeek	Nijlen	Sint-Laureins	Zandhoven
Lummen	Ninove	Sint-Lievens-Houtem	Zaventem
Maarkedal	Olen	Sint-Niklaas	Zelee
Machelen	Oostkamp	Sint-Truiden	Zelzate

Zingem  
Zoersel  
Zomergem  
Zonhoven  
Zonnebeke  
Zoutleeuw  
Zuienkerke  
Zwalm  
Zwevegem  
Zwijndrecht

## 7.5 LIST OF RESPONDING POLICE DISTRICTS

Police district Aalst	Police district Geel, Laakdal, Meerhout
Police district Antwerp	Police district Gent
Police district Assenede/Evergem	Police district Geraardsbergen/Lierde
Police district Balen/Dessel/Mol	Police district Grens
Police district Berlaar/Nijlen	Police district Hageland
Police district Berlare/Zele	Police district Hamont-Achel/Neerpelt/Overpelt (HANO)
Police district Bierbeek/Boutersem/Holsbeek/Lubbeek	Police district HERKO
Police district Bilzen/Hoeselt/Riemst	Police district Het Houtsche
Police district Blankenberge/Zuienkerke	Police district Kanton Borgloon
Police district Bredene/De Haan	Police district KASTZE
Police district BRT	Police district KEMPEN N-O
Police district Brugge	Police district Klein Brabant
Police district Damme/Knokke-Heist	Police district K-L-M
Police district Deinze/Zulte	Police district Kouter
Police district Demerdal - DSZ	Police district Kruikebe/Temse
Police district Denderleeuw/Haaltert	Police district Leuven
Police district Dendermonde	Police district Lier
Police district Dijleland	Police district LOWAZONE
Police district Druivenstreek	Police district Maasland
Police district Erpe-Mere/Lede	Police district Mechelen/Willebroek
Police district Gavers	Police district Meetjesland-Centrum
Police district Vilvoorde/Machelen	Police district Tongeren/Herstappe
Police district Middelkerke	Police district Vlaamse Ardennen
Police district Midlim	Police district Voorkempen
Police district MIDOW	Police district Westkust
Police district MINOS	Police district Wetteren/Laarne/Wichelen
Police district Neteland	Police district WOKRA
Police district Ninove	Police district ZARA
Police district Noord	Police district Zennevallei
Police district Noorderkempen	Police district Zuiderkempen
Police district Noordoost-Limburg	Police district Zwijndrecht
Police district Pajottenland	
Police district Puyenbroeck	
Police district Regio Tielt	
Police district Regio Turnhout	
Police district RODE	
Police district Ronse	
Police district Rupel	
Police district Schelde-Leie	
Police district Sint-Niklaas	
Police district Tienen/Hoegaarden	

## **COLOPHON**

**Edition September 2017**

### **RESPONSIBLE EDITOR**

Prof. Dr. Michael G. Faure LL.M.  
Chairman of the Flemish High Council of Environmental Enforcement  
Koning Albert II-laan 20 bus 15  
1000 Brussels

### **EDITING**

An Stas, Michaël Van den Berge, Laïla Macharis and Mathieu Moyson  
Flemish High Enforcement Council for Spatial Planning and Environment

This report is available on the website of the Flemish High Enforcement Council for Spatial Planning and Environment: [www.vhrm.be](http://www.vhrm.be)

**Duplication is acceptable on the condition that sources are credited.**

**VHRM**

FLEMISH HIGH  
ENFORCEMENT COUNCIL FOR  
SPATIAL PLANNING & ENVIRONMENT

Koning Albert II-laan 20 bus 15  
1000 BRUSSELS  
[www.vhrm.be](http://www.vhrm.be)