



Flanders
State of
the Art

Environmental Enforcement Report 2017

PREFACE

The Environmental Enforcement Report - 2017 is already the ninth environmental enforcement report prepared by the Flemish High Enforcement Council for Spatial Planning and Environment (VHRM). This means that in the meantime we can say that we have gathered considerable experience in such reports. Indeed, every year, the environmental enforcement report provides you, the reader, with a wide range of figures about the enforcement policy in Flanders on a local, regional and federal level. The previous environmental enforcement report also gave a limited qualitative overview of how the enforcement instruments are used. With the annual publication of the environmental enforcement report, the VHRM not only wishes to comply with the obligations laid down in decrees but also wants to contribute, in an active and substantiated manner, to the environmental enforcement policy in Flanders. However, to prevent this experience falling into a routine, the VHRM has decided to commission a study in 2018 to investigate how the preparation and contents of the environmental enforcement report and the spatial planning enforcement report can become more dynamic and be given a more integrated form. The intention is to work on an Environment Enforcement Report within the framework of the environmental philosophy and to finish this by 2020. The experience we have gained will not be lost and the basic data will always be included in the new reporting. However, the VHRM does hope that the results of the study will facilitate the creation of a more powerful report in terms of quality that offers you, the reader, an even more detailed picture of how the enforcement policy is carried out.

Looking back on 2017 we observe that the VHRM played an important role once again in the environmental enforcement landscape. The focus during the past year has been on information exchange. Since its inception, the VHRM has endeavoured to achieve maximum and optimum information exchange between the enforcement bodies. To examine the legal framework, a study was commissioned in 2017 that ultimately resulted in a conference on information exchange at which the environmental enforcer participated enthusiastically. 2018 is certainly not the end of the road for the VHRM's activities in the field of information exchange. The VHRM remains committed to the development of instruments and regulations to promote an effective and efficient exchange of information.

For a full overview of the activities and work of the VHRM in 2017, I refer to chapter 6 of this report.

On behalf of the VHRM, I would like to sincerely thank all parties who contributed to preparing this report. This report wouldn't have been possible without them. The quality and representativeness of the data in the environmental enforcement report are inextricably based on their collaboration.

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Chairman of the Flemish High Enforcement Council for Spatial Planning and Environment

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1 INTRODUCTION

1.1 DECREE OF 5 APRIL 1995 GOVERNING THE GENERAL PROVISIONS ON ENVIRONMENTAL POLICY

The Flemish High Enforcement Council for Spatial Planning and Environment (VHRM) was created by the decree of 21 December 2007 supplementing the decree of 5 April 1995 governing the general provisions on environmental policy with the title XVI “Monitoring, enforcement and safety measures” or¹ in short the Environmental Enforcement Decree.

The VHRM was set up to support the Flemish Parliament and the Government of Flanders with the coordination and implementation of the environmental enforcement policy. With a view to a more effective enforcement of environmental legislation, the VHRM organises systematic consultation with the environment enforcement bodies. This consultation may result in agreements between the various bodies. These agreements are called protocols. The VHRM is the facilitator for holding consultations with environmental enforcement bodies as well as preparing and concluding the protocols. In this context we can refer to the first environmental enforcement protocol that was signed on 18 March 2013 by minister Schauvliege and minister Turtelboom, namely the ‘Priorities Memorandum on the environmental law enforcement policy in the Flemish Region 2013’² that will be updated in 2018. 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.

With the entry into force of (certain articles of) the decree of 25 April 2014 on the enforcement of the environmental permit on 6 September 2014, the Flemish High Council for Environmental Enforcement was transformed into the Flemish High Enforcement Council for Spatial Planning and Environment, or the VHRM in short. The transition of the Flemish High Council for Environmental Enforcement into the Flemish High Enforcement Council for Spatial Planning and Environment went hand in hand with the expansion of the members, representatives and alternate members of the VHRM, including a chairman with expertise in the enforcement of the Flemish Spatial Planning and members and

¹ Publication in the Belgian Official Gazette of 29 February 2009

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

alternate members nominated by the policy council of the Spatial Planning, Housing Policy and Immovable Heritage Policy Area and the Strategic Spatial Planning Advisory Council – Immovable Heritage.

The composition of the plenary meeting of the VHRM was laid down in the Government of Flanders Order of 17 October 2014 regarding the appointment of the members of the Flemish High Enforcement Council for Spatial Planning and Environment³. The full and updated composition of the plenary meeting can be found on the website of the Flemish High Enforcement Council for Spatial Planning and Environment (VHRM)⁴. In addition to a plenary meeting, the VHRM also has several working groups that investigate special matters. For example, the Monitoring, Sanctioning and Information Working Group created a code of conduct for enforcers, the Innovation working group organised the autumn conference on Information Exchange, a workshop on administrative penalty payments and a workshop on the prevention of procedural errors; the Environment & Spatial Planning working group prepared the start-up of a study on the creation of an integrated Enforcement Report. Chapter 6 provides more details about the activities of the VHRM and the various works in 2017.

The VHRM must prepare an annual environmental enforcement report and a five-year environmental enforcement programme.

- ▶ The environmental enforcement programme, which for the first time has been given a time horizon of five years, contains recommendations for environmental enforcement based on the analysis of the individual programmes of all bodies as defined by the Environmental Enforcement Decree. 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 website⁵. In 2018, the Programming working group started with the preparations for the creation of the Environmental Enforcement Programme 2020-2024.
- ▶ The environmental enforcement report contains at least a general evaluation of the regional environmental enforcement policy implemented in the previous calendar year; a specific evaluation of the commitment of the individual enforcement instruments; an overview of the cases where, within the specified period, no decision was made about the appeals against decisions on administrative measures; an evaluation of the decision-making practice of the public prosecutor's offices on whether or not to institute criminal proceedings for an established environmental offence; an overview and comparison of the environmental enforcement policy followed by the municipalities and provinces; an inventory of the insights that were gained during the enforcement and which can be used for improving environmental regulations, policy visions and policy implementation; and recommendations for the further development of the environmental enforcement policy. These environmental enforcement reports for 2009 to 2016 can be found on the VHRM website⁶.

³ Publication in the Belgian Official Gazette of 4 November 2014

⁴ <http://www.vhrm.be/leden>

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

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

As mentioned earlier, the VHRM is currently investigating how an integrated enforcement report can be drawn up in the coming years. This year the Environmental Enforcement Report 2017 and the Spatial Planning Enforcement Report 2017 will appear as two separate documents.

1.2 METHODOLOGY AND RELEVANCE OF THE ENVIRONMENTAL ENFORCEMENT REPORT 2017

1.2.1 Working method

On the basis of relevant and reliable numerical and qualitative data, the intent of the environmental enforcement report is to give a detailed overview of the environmental policy that was implemented in the Flemish Region from 1 January 2017 to 31 December 2017.

To meet this objective and also the components laid down by decree, the VHRM has prepared a questionnaire, similar to the format used in previous environmental enforcement reports, for the environmental enforcement bodies and which focusses on the different assignments of these bodies. Since 2015, the bodies have received, within the framework of 'radical digital' (see. Coalition Agreement 2014-2019⁷), a digital questionnaire.

On 1 April 2017, the Department of Environment and Spatial Development was created, within the new Environment policy area, as a result of the merger of the Department of Environment, Nature and Energy with the Spatial Development Department Flanders. This led to structural changes for a number of regional enforcement bodies which have been surveyed with regard to the preparation of environmental enforcement report since 2009. The Environmental Inspectorate Division and the Environmental Enforcement, Environmental Damage and Crisis Management division were brought together in a single department, namely the Enforcement division. The former Land and Soil Protection, Substrate and Natural Resources Service (ALBON) was partly transferred to the Territorial Development, Environmental Planning and Projects division on the one hand and to the Flemish Planning Bureau for the Environment on the other hand. The Environmental Licences Division is also part of the Territorial Development, Environmental Planning and Projects division since 1 April 2017.

An overview of the various bodies that were surveyed about their activities with regard to the enforcement of environmental law between 1 January 2017 and 31 December 2017 is given below. Where relevant, the new name of the regional body is specified as it is used in this enforcement report:

- ▶ Department of Environment and Spatial Development – Enforcement division – Environmental Inspectorate, i.e. the former Environmental Inspectorate Division of the Department of Environment, Nature and Energy (LNE-AMI);
- ▶ Department of Environment and Spatial Development – Territorial Development and Projects division, i.e. the new division in the Environment department where the former Environmental Licences Division of the Department of Environment, Nature and Energy (LNE-AMV) was transferred;

⁷ <http://www.vlaanderen.be/nl/publicaties/detail/het-regeerakkoord-van-de-vlaamse-regering-2014-2019>

- ▶ Department of Environment and Spatial Development, the regional entity of the Enforcement division, i.e. the former Environmental Enforcement, Environmental Damage and Crisis Management division of the Department of Environment, Nature and Energy (LNE-AMMC);
- ▶ Department of Environment and Spatial Development – Territorial Development, Environmental Planning and Projects of the Flemish Planning Bureau for the Environment, i.e. the new divisions in the Department of Environment and Spatial Development where the former Land and Soil Protection, Substrate and Natural Resources Service of the Department of Environment, Nature and Energy (LNE-ALBON) were transferred;
- ▶ the secretary-general of the Department of Environment and Spatial Development, formerly 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);
- ▶ Waterways and Sea Canal (AWZ);
- ▶ the Flemish Agency for Care and Health (VAZG);
- ▶ the Agency for Roads and Traffic (AWV);
- ▶ NV De Scheepvaart⁸;
- ▶ The Department of Mobility and Public Works (MOW);
- ▶ the Flemish mayors;
- ▶ the Flemish municipalities;
- ▶ the inter-municipal associations;
- ▶ the Flemish police zones;
- ▶ the federal police;
- ▶ the Flemish provincial governors;
- ▶ the provincial supervisors;
- ▶ the Environmental Enforcement Court;
- ▶ the public prosecutor's offices.

As indicated in the list above, the inter-municipal associations active in the enforcement of environmental law were also surveyed⁹. After all, the Environmental Enforcement Decree stipulates that municipalities may choose to use the services of a supervisor via inter-municipal cooperation.

A uniform questionnaire was also used here to ensure that comparable information could be obtained. For example, the survey examined the number of supervisors in the organisation, the number of full-time employees (FTEs) deployed by the supervisor(s) for environmental enforcement tasks within the framework of the Environmental Enforcement Decree and the FTEs devoted to administrative support of environmental enforcement tasks by non-supervisors, the number of inspections carried out between 1 January 2017 and 31 December 2017, the number of initial official reports, the number of incident reports and the number of administrative measures and safety

⁸ NV De Scheepvaart changed its name on 10 February 2017 to De Vlaamse Waterweg NV (Flemish Waterways plc). Waterways and Sea Canal (Waterwegen en Zeekanaal NV) was dissolved on 1 January 2018 and acquired by De Vlaamse Waterweg NV. Both parties are consequently included separately in this enforcement report for 2017. To avoid confusion between the former and the merged entities, this report still uses the name NV De Scheepvaart.

⁹ 7 inter-municipal associations responded, i.e. VENECO, INTERLEUVEN, HAVILAND, IOK, WVI, IGEAN and IGEMO.

measures imposed. The sanctioning bodies were also asked about their activities between 1 January 2017 and 31 December 2017.

The information received via the standardised questionnaires resulted in a quantitative overview of the activities performed by enforcement bodies in 2017. These figures are represented graphically in a diagram or table together with a textual explanation.

Since this is already the ninth environmental enforcement report, a comparison will be made – where this is relevant and interesting – with the data from previous environmental enforcement reports. This gives us a clear picture of the impact and implementation of the Environmental Enforcement Decree.

1.2.2 Structure

The decree clearly states the subjects that require minimum reporting. The VHRM designed the questionnaires to meet these requirements, although the sequence may differ from the listing in the Environmental Enforcement Decree.

The focus of chapter 2 is mainly on the efforts of the supervisory authorities. First an evaluation is given of the environmental enforcement policy implemented during the previous calendar year by the regional supervisors, the federal police, the Local police and the enforcement activities carried out at a local level by the provincial governors, the provincial supervisors, the municipal supervisors and the supervisors of the inter-municipal associations. An overview will be given of the number of supervisors per organisation, the FTEs deployed by the supervisor(s) for environmental enforcement tasks within the framework of the Environmental Enforcement Decrees the FTEs deployed for administrative support of environmental enforcement tasks by non-supervisors, and the number of inspections carried out by these supervisors in 2017. This also gives us a clear picture of the number of inspections performed per supervisor. For the Federal police and the Local police, the type of official report concerning the environment and drawn up by the police force is reviewed.

In addition, special attention is paid to the proactive inspections carried out by the Federal police in the context of waste shipments and to the activities of supervisors appointed by the Local police. The current local enforcement policy is also evaluated. For the local enforcement policy, the presence of the number of class 1, class 2 and class 3 establishments on their territory is also reviewed. It should be noted that on 23 February 2017, a number of the class 1 establishments with limited complexity and of a more local character were reclassified as class 2 establishments. This means that supervision of these businesses was transferred from the regional supervisors to the municipal supervisors. This reclassification plays an important role in chapter 2, due to the fact that the appointment of the number of local supervisors in municipalities depends on the number of class 2 establishments. Furthermore, the supervisory tasks performed by the Flemish cities and municipalities are also assessed.

Chapter 3 focusses on the use of individual environmental enforcement instruments by the different environmental enforcement bodies. To set clear boundaries for the concept of 'environmental enforcement instrument', a list of these instruments has been prepared on the basis of the parliamentary preparations for the Environmental Enforcement Decree. The uniform questionnaires

were created on the basis of this list. It concerns the following instruments: recommendations, reminders, administrative measures (regularisation order, injunctions, administrative coercive measures or a combination of these), safety measures, administrative fines (and expropriation of unlawful material benefits) and criminal sanctions. Administrative fines, administrative transactions and criminal sanctions will be discussed in a separate chapter, namely chapter 4 'Evaluation of the sanctioning policy implemented in the previous calendar year'. Just as in the previous Environmental Enforcement Reports, the enforcement instruments are compared with the number of inspections carried out where an infringement has been established and not in relation to the total number of inspections carried out. The official report and the incident report are also included in this specific evaluation of the use of the individual environmental enforcement instruments.

Chapter 4 'Evaluation of the sanctioning policy implemented in the previous calendar year' continues with an overview of the administrative and criminal sanctions imposed by the Flemish Land Agency (VLM) and the regional entity of the Enforcement division of the Department of Environment and Spatial Development. An overview is also provided of the activities of public prosecutor's offices and the Environmental Enforcement Court (MHHC).

Other types of penalties may also be imposed, such as the municipal administrative sanctions (GAS) and fines for mandatory levies. However, these do not fall under the Environmental Enforcement Decree and will consequently not be discussed further.

The conclusion of the report (chapter 5) is an effort to establish an inventory of the insights obtained during the enforcement which can be used to improve environmental regulations, policy visions and policy implementation, and to formulate recommendations for further development of the environmental enforcement policy.

Not only will the data for 2017 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 chapter 6, the VHRM reports on its own work in 2017 on environment-related issues. Activities were carried out, both in the plenary meeting and in the working groups, that 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 Comments

The Environmental Enforcement Decree stipulates that the environmental enforcement report must contain, among others, an evaluation of the regional environmental enforcement policy implemented in the previous 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 on whether or not to institute criminal proceedings for an established environmental offence. There can, however, be no question of an assessment *sensu stricto*. To genuinely investigate the effectiveness of the environmental enforcement policy, certain evaluation criteria must be defined *ex ante*. The fact that this is the ninth environmental enforcement report prepared by the VHRM, does allow us

to make an assessment of the further implementation of the Environmental Enforcement Decree and obtain a better picture of how enforcement bodies are using the instruments provided in the Environmental Enforcement Decree.

On the other hand, it should be noted that the response rate for this environmental enforcement report is still not 100%. Although the various relevant bodies were officially contacted and there is an obligation to cooperate for bodies in the Flemish Region, the response is still not complete. This means that the figures are not completely representative and the conclusions must also be read in this light. However, it should be noted that the VHRM has taken various initiatives over the past year in order to achieve a higher response. For example, a digital registration form was distributed in the course of 2017 via the VHRM newsletter, which is also available on the private website. The form is based on the current survey of the Environmental Enforcement Report and is intended to enable the supervisor to register the correct figures throughout the calendar year. This makes it easier to complete the VHRM's annual survey. Furthermore, the permanent secretariat of the VHRM also made specific efforts to obtain a response where the questionnaire initially remained unanswered. In several cases, this still gave a positive result.

As indicated earlier in the description of the structure, the activities of the supervisors of the Local police are discussed in a separate chapter following the activities of the Federal police. This is due to the fact that the Local police has distinct tasks with regard to the enforcement of environmental legislation. On the one hand, police officers in some cities and municipalities have been appointed as supervisors within a police zone. On the other hand, the Local police are in charge of basic police care and, more specifically, carry out all administrative and judicial police task on the territory of the police zone. Of course, environmental legislation is also enforced in this context, even if it is not as a supervisor within the framework of the Environmental Enforcement Decree. Also for this Environmental Enforcement Report 2017, the chiefs of police of the Flemish police zones were asked to only report on the activities of the supervisor(s) if a supervisor was appointed within the police zone. This section (2.2.3) should therefore be read in conjunction with the evaluation of the pursued local environmental enforcement policy (2.3.6).

Since, as in previous years, the survey for the environmental enforcement report is numerical and no context data is requested, there may be room for interpretation. However, the members, representatives and deputies of the VHRM were given the opportunity, after processing the data, to provide further substantive comments and place the results in a broader context.

This ninth environmental enforcement report also has its limits, but it does constitute a next step in the evaluation of environmental enforcement policy in the Flemish Region and in the further implementation of the Environmental Enforcement Decree. With the environmental enforcement report, the Flemish High Enforcement Council for Spatial Planning and Environment is committed to offering added value not only to policy-makers but also to the actual enforcement bodies.

1.3 ENVIRONMENTAL ENFORCEMENT POLICY

The coalition agreement of the Government of Flanders 2014-2019¹⁰ has the ambition to increase the efficiency and provide more cooperation and coordination between all services whose roles involve the enforcement of Flemish regulations and curbing violations. We also aim to streamline procedures in existing Flemish enforcement regulations.

In addition, this coalition agreement stipulates that, as part of the modernisation of the range of instruments and the creation of an even more efficient government, the policy lines and priorities of the enforcement of the integrated environmental permit will be elaborated in the enforcement programme and that the instruments of administrative enforcement will be deployed optimally. The intention is also to create a solution-driven and customer-friendly environmental administration whereby the administrations identify and provide solutions to help a project progress and act as a knowledge unit that helps create support, never losing sight of the general interest. With regard to enforcement good sense must prevail and a solution-oriented and customer-friendly approach is paramount. The decree framework adopted must also support and not counteract this solution-oriented working method.

The VHRM has an important supporting role in this respect. Aligning the environmental enforcement report with the Spatial Planning enforcement report as well as the coordinating role of the council in drawing up the Spatial Planning enforcement programme are an implementation of this coalition agreement.

The environment policy memorandum 2014-2019 of Flemish Minister Joke Schauvliege¹¹ sets out strategic and operational objectives with regard to environmental enforcement, which the VHRM can play an important role in implementing.

Strategic objective 3, 'Simple and effective instruments', is especially important for enforcement as further specified in operational objective 14, 'Further development of targeted enforcement policy'.

The policy memorandum of the Flemish Minister for general government policy, Geert Bourgeois¹², also contains related focus points with regard to enforcement, more specifically in strategic objective 1, 'A smooth and reliable service for the Flemish Government, an innovative process management for the decision-making and elaboration of the Flemish Justice'.

This strategic objective was further developed into six operational objectives, two of which relate directly to enforcement policy.

On the one hand, this is elaborated in operational objective 1.4: Implementation of the cooperation agreement on criminal policy and security policy to ensure a more coherent prosecution of offences: *"Flanders has many powers in terms of criminal law, such as the environment, urban planning, employment, traffic safety, arms trade, youth protection and compulsory education. I will implement the cooperation agreement on criminal policy and security policy so that offences covered by Flemish powers relating to criminal law can be prosecuted in a more coherent way. After the sixth state reform, Flanders will have more instruments to enforce its own regulations and to develop its own prosecution policy. I will initiate collaboration with the Board of Procurators General as soon as*

¹⁰ <http://ebl.vlaanderen.be/publications/documents/60797>

¹¹ <http://ebl.vlaanderen.be/publications/documents/65581>

¹² <http://ebl.vlaanderen.be/publications/documents/65542>

possible. I will actively attend the meetings of the Board of Procurators General and ensure that the policy priorities of the Government of Flanders are translated into guidelines for criminal policy as soon as possible. I will apply in this respect the principle that criminal prosecution should only be requested for the most punishable offences (criminal law as ultimate remedy). In order to prepare the guidelines for criminal policy, it is important to appoint representatives in the various thematic networks of expertise and in horizontal networks of expertise, such as criminal policy and criminal proceedings. I am strengthening collaboration with the federal level as part of the security policy and I am actively contributing to the Framework Memorandum on Integral Security and the National Security Plan. All of this is done in close consultation with my colleagues who are responsible for the matters in question. That is why I will set up a coordination mechanism within the Government of Flanders. The task of this body is to support the criminal policy and the security policy. Via the positive right of injunction, Flanders can order the public prosecutor's office, in individual cases, to prosecute a case or to appeal. I will exercise this positive right of injunction responsibly and in close consultation with the authorised ministers of the matters in questions."

On the other hand, obvious starting points can be found in operational objective 1.5 'Development of a Flemish inspection and enforcement policy' by strengthening the efficiency and coordination of all inspection and enforcement services and streamlining processes and procedures: *"I will lay the foundations for a Flemish inspection and enforcement policy, on the understanding that the separate inspectorates will continue to exist. To this end, I will carry out the recommendations of the enforcement theme audit of Audit Flanders. A project has already been started within the administration to elaborate recommendations on a cross-policy domain inspection and enforcement policy. I am investigating how the activities of this working group will continue in order to develop concrete proposals for increasing efficiency and more collaboration and alignment between all inspection and enforcement services. The guiding principle is that inspection and enforcement services in Flanders must comply with six principles of good supervision: selectivity, decisiveness, collaboration, transparency, professionalism and independent functioning. I am also setting up a specific project group to investigate how we can streamline inspection processes and procedures in the existing Flemish enforcement regulations. With regard to the inspection processes, I am thinking, for example, of the duration and frequency of inspections, joint inspections by various services, and the reduction of the supervisory burden. I am also committed to developing an administrative enforcement decree that streamlines the processes and procedures for imposing administrative fines and measures. I am increasing the customer-friendliness of inspections and reducing the supervisory burden of inspected parties. If irregularities are found during an inspection, the inspectorates shall provide information to the inspected person on how he can fulfil all obligations. Sanctions will only be imposed if the infringement persists. The option to impose an immediate sanction remains for serious infringements. I have instructed that methods to increase spontaneous compliance are inventoried based on the literature and existing practices. The inspection and enforcement services shall be systematically and structurally involved in the preparation and amendment of relevant legislation and regulations."*

In view of the above framework, the VHRM will 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 OF THE PURSUED ENVIRONMENTAL ENFORCEMENT POLICY

This chapter aims to evaluate the Flemish environmental enforcement policy from 1 January 2017 to 31 December 2017. This is a report on the enforcement and supervisory activities of the various bodies active in the Flemish Region in 2017. Where possible and relevant, a comparison will also be made with the data collected by the VHRM in previous environmental enforcement reports.

2.1 EVALUATION OF THE REGIONAL ENFORCEMENT POLICY

The following section discusses the enforcement activities of the following enforcement authorities: the Secretary-General of the Department of Environment and Spatial Development ; Department of Environment and Spatial Development – Enforcement - Environmental Inspection Division (formerly AMI); Department of Environment and Spatial Development - Territorial Development, Environmental Planning and Projects Division (formerly AMV); Department of Environment and Spatial Development - Territorial Development, Environmental Planning and Projects Division & the Flemish Planning Agency for the Environment (formerly ALBON); the Flemish Land Agency (VLM); Flanders 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); Waterways and Sea Canal (AWZ); the Agency for Roads and Traffic (AWV), the Maritime Access Department of the Department of Mobility and Public Works (MOW) and NV De Scheepvaart.

No VMM data were included in the tables and graphs for this Environmental Enforcement Report 2017, given the fact that the figures provided would create a distorted picture. Enforcement is divided into two departments at the VMM, namely the Operational Water Management Division and the Water Reporting Division. Before 2017 it was not possible to report a complete overview of the enforcement activities carried out by both departments. The available data will be included in the text.

2.1.1 Regional supervisors

In implementation of article 16.3.1 of the Environmental Enforcement Decree, staff members of the division and the agencies belonging to the Environment, Welfare, Public Health and Family policy areas, and Mobility and Public Works may be appointed as supervisors by the Government of Flanders. As mentioned in the introduction, the Department of Environment, Nature and Energy and the Spatial Development Department Flanders merged into the Department of Environment and Spatial Development in 2017. This merger has had an impact on the names of a number of enforcement authorities. As some data are compared with the figures in previous reports, the former name will always be referred to next to the new name.

Article 16.3.2 of the Environmental Enforcement Decree stipulates that only persons who have the required qualifications and characteristics to properly fulfil the supervisory task can be appointed as supervisors.

In the questionnaire, the regional supervisory bodies were asked to indicate the number of supervisors, appointed by the Government of Flanders, that they could call upon in 2017.

The following table shows the number of supervisors deployed by the regional enforcement bodies in 2017. Based on the data from the Environmental Enforcement Report 2016 and the Environmental Enforcement Report 2015, it was also possible to make a comparison between the total number of supervisors that could be called upon by the supervisory authority in 2017, 2016 and 2015.

Regional enforcement body	Number of supervisors		
	2015	2016	2017
Department of Environment and Spatial Development - Territorial Development, Environmental Planning and Projects Divisions & the Flemish Planning Agency for the Environment (formerly ALBON)	13	13	13
Department of Environment and Spatial Development - Enforcement - Environmental Inspectorate (formerly AMI)	117	107	103 ¹³
Department of Environment and Spatial Development - Territorial Development, Environmental Planning and Projects Divisions (formerly AMV)	84	84	9
Agency for Nature and Forests (ANB)	162	150	136
Agency for Waterways and Sea Canal (AWZ)	68	68	68
Agency for Roads and Traffic (AWV)	58	58	51
Flemish Agency for Care and Health (VAZG)	18	18	16
NV De Scheepvaart	30	30	22
Public Waste Agency of Flanders (OVAM)	112	159	159
Flemish Land Agency (VLM)	45	39	39
Flemish Environment Agency (VMM)	21	28	/
Department of Mobility and Public Works (MOW)	13	11	9
Total	741	765	625

Table 1 Number of supervisors per regional supervisory authority in 2015, 2016 and 2017

To provide more context for table 1, the following comments need to be formulated:

- ▶ In 2017, the secretary-general of the Department of Environment and Spatial Development did not carry out any supervision since, as in previous years, there were no exceptional circumstances in which his authority had to be used. The secretary-general of the Department of Environment and Spatial Development is therefore not included in the tables and graphs.
- ▶ As mentioned above, the VMM figures for 2017 are not included in the tables and graphs given that the data received would not give a correct picture of VMM's enforcement activities. For 2017, it was announced that 22 supervisors were active within VMM.
- ▶ OVAM (Public Waste Agency of Flanders) states that the high 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 organisation 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).

Based on the above comments, it can be concluded that a total of 647¹⁴ regional supervisors were appointed in 2017. This is a sharp decline of 118 supervisors compared to the total number of

¹³ The Enforcement Division of the Department of Environment and Spatial Development reports that at the date of the survey for this environmental enforcement report, the number of supervisors was 103, but 102 supervisors could be called upon in the course of 2018.

¹⁴ 625 supervisors as listed in table 1 + 22 supervisors of the Flemish Environment Agency (VMM).

supervisors appointed in 2016. This decline can mainly be attributed to the number of supervisors in the Department of Environment and Spatial Development - Territorial Development, Environmental Planning and Projects Divisions (formerly AMV). This number decreased by 89% in 2017 compared to 2016. The number of supervisors also fell at NV De Scheepvaart, namely by 36% in 2017 compared to 2016.

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 Environmental Enforcement Decree, the intention was to increase the chances of identifying certain offences, such as littering, by deploying more supervisors; this approach is described as "many eyes in the field". As a result, officials outside the Environment and Spatial Planning policy area were also appointed to combat the waste problem.

2.1.2 Efforts related to environmental enforcement tasks

Time spend

As could be seen in previous environmental enforcement reports, the way in which the regional enforcement bodies organise their enforcement duties differs greatly. Certain enforcement bodies have appointed many supervisors, while their enforcement duties or powers are rather limited. There are also bodies where the supervisors work (almost) full time to perform their environmental enforcement tasks. This means that specifying the number of supervisors does not give a complete picture of the effective deployment of resources for enforcement activities. The regional supervisory bodies were therefore asked once again to indicate how many full-time equivalents employees (FTEs) were deployed for enforcement duties in 2017. Despite the fact that the Environmental Enforcement Decree does not determine how many FTEs should be deployed for enforcement tasks, the number of deployed FTEs can provide a clearer and more balanced picture of the actual effort made in the field of environmental enforcement.

The following table shows not only the total time spent on environmental enforcement tasks by the regional supervisors – in FTEs – in 2017, but also the number of FTEs deployed for administrative support of environmental enforcement tasks by non-supervisors. Administrative support for environmental enforcement tasks relates to the time spent by non-supervisors on environmental enforcement related tasks. 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). For comparison, the data on the total number of FTEs deployed for environmental enforcement tasks in 2015 and 2016 are presented.

Regional enforcement body	Total FTEs deployed for environmental enforcement tasks			FTE deployed by supervisors for environmental enforcement tasks	FTE deployed for administrative support of environmental enforcement tasks by non-supervisors
	2015	2016	2017	2017	2017
Department of Environment and Spatial Development - Territorial Development, Environmental Planning and Projects Divisions & Flemish Planning Agency for the Environment (formerly ALBON)	2.40	2.6	2.6	2.1	0.5
Department of Environment and Spatial Development - Enforcement - Environmental Inspectorate (formerly AMI)	91.70	96.99	101.8	87 ¹⁵	14.8 ¹⁶
Department of Environment and Spatial Development - Territorial Development, Environmental Planning and Projects Divisions (formerly AMV)	3.95	2.25	1.05	0.85	0.2
Agency for Nature and Forests (ANB)	37.20	34.5	44.4	43.9	0.5
Agency for Waterways and Sea Canal (AWZ)	0.01	0.01	0.02	0.01	0.01
Agency for Roads and Traffic (AWV)	1.00	1.2	1.5	1	0.5
Flemish Agency for Care and Health (VAZG)	3.91	4.25	4.05	1.5	2.55
NV De Scheepvaart	1.10	1.1	0.02	0.01	0.01
Public Waste Agency of Flanders (OVAM)	8.90	10.15	10.6	7.5	3.1
Flemish Land Agency (VLM)	30.95	33.3	32.6	32.6	0
Flemish Environment Agency (VMM)	0.60	0.6	/	/	/
Department of Mobility and Public Works (MOW)	0.00	0	0.1	0.05	0.05
Total	181.72	186.95	198.74	176.52	22.22

Table 2 Efforts of the regional supervisory authority related to environmental enforcement tasks in 2015, 2016 and 2017

To provide more context for table 2, the following comment needs to be formulated:

- ▶ VMM reported that in 2017, the 22 supervisors spent 0.4 FTE on environmental enforcement tasks and 0.1 FTE on administrative support of environmental enforcement tasks by non-supervisors.
- ▶ OVAM indicated that administrative support was given in 309 cases to external services (police, Environmental Inspectorate, municipalities, etc.). This mainly concerns questions about waste. OVAM has only limited authority for waste legislation but advises the many inspection services that are authorised to do this. The number of FTEs reported for administrative support includes support for internal and external supervisors.

With regard to the total number of FTEs deployed on environmental enforcement tasks by the regional supervisory bodies, a positive evolution can be observed once again. In 2017, almost 12 more FTEs were deployed for on environmental enforcement tasks than in 2016. This increase in the number

¹⁵ The Enforcement Division of the Department of Environment and Spatial Development reports that at the date of the survey for this environmental enforcement report, the number of FTEs deployed by supervisors for enforcement tasks was 87, but this was 87.6 FTEs in the course of 2018.

¹⁶ The Enforcement Division of the Department of Environment and Spatial Development reports that at the date of the survey for this environmental enforcement report, the number of FTEs deployed for administrative support of environmental enforcement tasks by non-supervisors was 14.8, but this was 15.1 FTEs in the course of 2018.

of FTEs is mainly attributable to the Department of Environment and Spatial Development - Enforcement Division - Environmental Inspectorate (formerly AMI), despite the fact that this enforcement body experienced a decrease in the total number of supervisors in 2017. The increase in the number of FTEs that the ANB deploys for environmental enforcement tasks compared to 2016 is explained by the fact that in 2017, for the first time, the enforcement efforts of forest rangers who can only spend a limited part of their time on enforcement was also taking into account. This commitment is estimated at 10 FTEs

Approximately 11% of the total number of FTEs in 2017 deployed for enforcement tasks within the enforcement bodies is spent on administrative support for environmental enforcement tasks by non-supervisors. This is a slight increase compared to 2016 and 2015 when 8% of the total number of FTEs deployed for enforcement tasks was spent on administrative support for environmental enforcement tasks. This could mean that enforcement authorities spend more time on administrative tasks than before.

For 2017 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 spent by the Department of Environment and Spatial Development - Enforcement Division - Environmental Inspectorate (formerly AMI), i.e. 101.8 FTEs. Other enforcement bodies devoted very few, if any, FTEs to environmental enforcement tasks, such as Waterways and Sea Canal and NV De Scheepvaart. In 2017, they had 68 and 22 regional supervisors respectively and both spent 0.02 FTEs on environmental enforcement tasks. This can be explained by the fact that environmental enforcement is not one of their priority tasks.

Number of inspections

In order to provide a better framework for the environmental enforcement efforts of the regional supervisory authorities, it was asked how many environmental enforcement inspections were carried out by these supervisors between 1 January 2017 and 31 December 2017. The definition of an inspection is the following: *"An environmental enforcement inspection is the process of examining whether a legal person and/or a natural person who is bound by legal obligations under environmental law, actually complies with those legal obligations"*. The table below gives an overview of the total number of environmental enforcement inspections carried out by supervisors in 2017. For comparison, the total number of environmental enforcement inspections carried out in 2015 and 2016 by regional supervisory authority was also presented.

Regional enforcement body	Number of environmental enforcement inspections		
	2015	2016	2017
Department of Environment and Spatial Development - Territorial Development, Environmental Planning and Projects Divisions & Flemish Planning Agency for the Environment (formerly ALBON)	231	211	206
Department of Environment and Spatial Development - Enforcement - Environmental Inspectorate (formerly AMI)	13,305	11,050	10,931
Department of Environment and Spatial Development - Territorial Development, Environmental Planning and Projects Divisions (formerly AMV)	1,764	1,316	606
Agency for Nature and Forests (ANB)	9,531	7,355	7,601
Agency for Waterways and Sea Canal (AWZ)	1	3	12
Agency for Roads and Traffic (AWV)	124	222	302
Flemish Agency for Care and Health (VAZG)	4,585	7,317	8,798
NV De Scheepvaart	41	22	38
Public Waste Agency of Flanders (OVAM)	3,323	378	2,663
Flemish Land Agency (VLM)	4,687	5,231	5,932
Flemish Environment Agency (VMM)	33	52	/
Department of Mobility and Public Works (MOW)	0	2	0
Total	37,625	33,159	37,089

Table 3 Total number of environmental enforcement inspections carried out by supervisors in 2015, 2016 and 2017

To provide more context for table 3, the following comments need to be made:

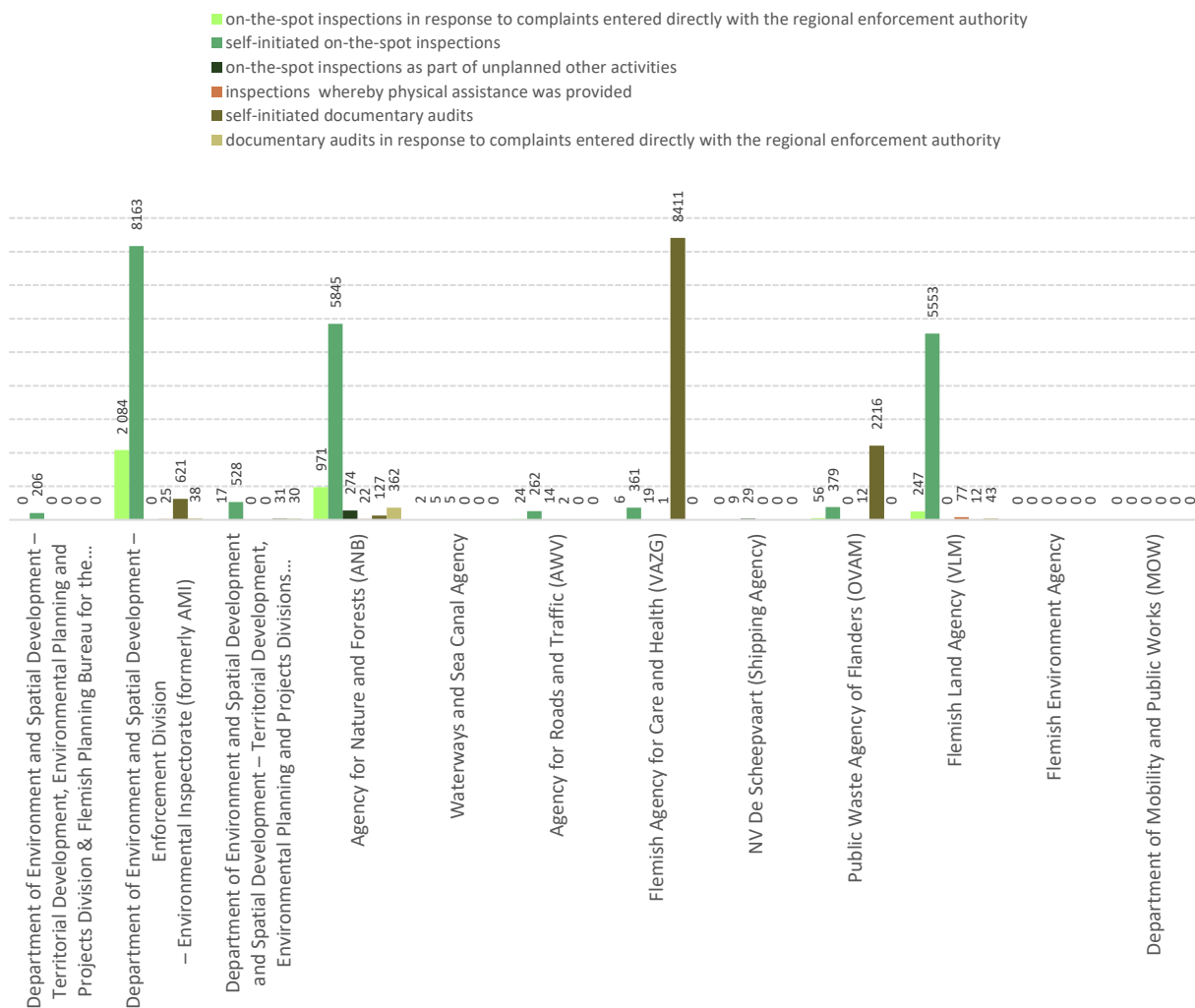
- ▶ The supervisors of VMM combine the environmental enforcement inspections with their supervisory and inspection work along unnavigable waterways. This supervision has, in the first place, a dissuasive effect on potential offenders. Where necessary, active awareness-raising and guidance measures are taken in the field to prevent or eliminate environmental offences (for example by distributing the leaflet "living along unnavigable waterways"). If the soft approach has no effect or in the event of offences where environmental damage is clearly being caused, the territory administrators inform the supervisors to deal with the offence using the instruments provided in the Environmental Enforcement Decree. A total of 227 environmental enforcement inspections were reported during the survey, although this does not constitute an overall picture since some supervisors were unable to report a total.
- ▶ The Department of Environment and Spatial Development - Territorial Development, Environmental Planning and Projects Division (formerly AMV) indicated that the figure given includes all inspections that were started in 2017 but not necessarily completed in 2017. It does not include inspections carried out in 2016 or earlier and completed in the course of 2017.

Taking the above into account, it can be concluded that the regional supervisors carried out a total of 37,089 environmental enforcement inspections in 2017 (excluding those carried out by VMM supervisors). Compared to 2016, the number of environmental enforcement inspections carried out increased by 12%. This increase can be explained by the increase in the number of environmental enforcement inspections carried out by OVAM. In 2015, OVAM carried out 3,323 inspections. Only 378 inspections were carried out in 2016 and 2,663 in 2017. This difference in the numbers is caused by the 'Integrated Annual Environmental Report' (IIMJV) 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 IMJV desk. In the years with a small sample, as in 2016, this is more limited (approx. 50-100). The companies that do not respond to the invitation receive an official warning (as provided in the Environmental Enforcement Decree) from OVAM to report via IMJV. Every company that receives such a warning is counted as one inspection by OVAM. IMJV follow-up and the sending of warnings has been automated as much as possible so that the required time 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. An increase in the number of environmental enforcement inspections carried out by VAZG can also be observed, namely 20% in 2017 compared to 2016, despite the fact that the number of FTEs deployed remains the same. An opposite movement is visible for the Department of Environment and Spatial Development - Enforcement - Environmental Inspectorate Division (formerly AMI). The number of FTEs available to perform enforcement duties is steadily increasing, while the number of environmental enforcement inspections carried out is decreasing. This can be explained by the fact that inspections are increasingly focusing on inspections of management system components ('systematic' inspections) such as safety management systems, environmental management systems, maintenance systems, inspection systems, etc. These checks have greater depth, so they also take longer than mere verification checks. At the Department of Environment and Spatial Development - Territorial Development, Environmental Planning and Projects Division (formerly AMV), the number of inspections carried out in 2017 dropped by more than 50%, but the number of available FTEs also declined by more than 50%.

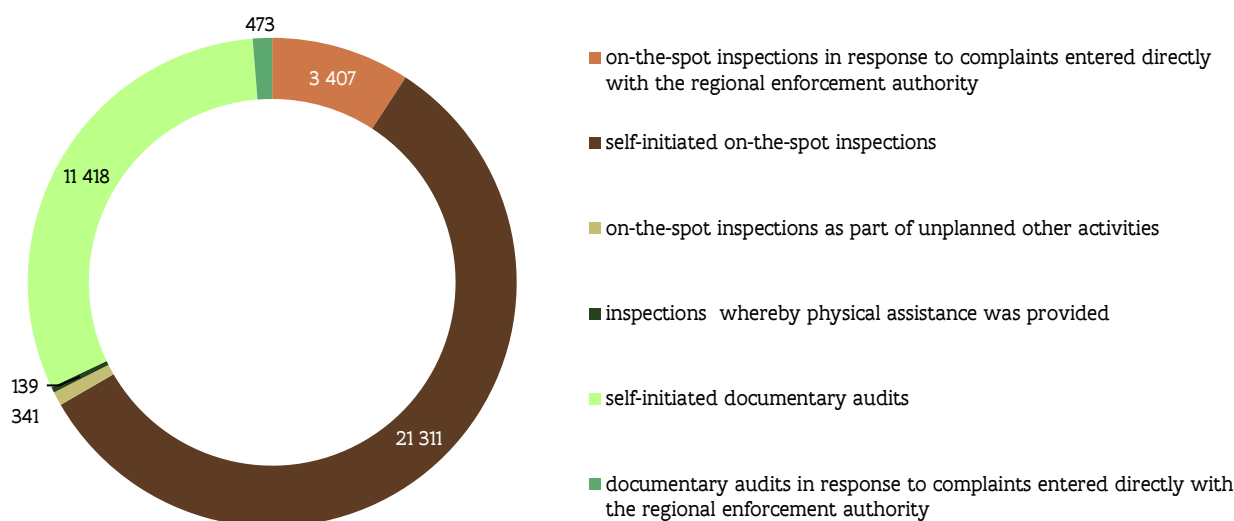
Types of inspections

New since 2016 is that the regional supervisors were also questioned on the basis of the inspections they carried out. For example, in addition to the number of environmental enforcement inspections carried out, they were asked to distinguish between the number of documentary inspections based on complaints made directly to the regional body, documentary inspections based on their own initiative, inspections on the spot where assistance was provided, inspections on the spot during other unforeseen work, inspections on the spot based on their own initiative, and inspections on the spot based on complaints made directly to the regional body. The following graphs illustrate this classification, by body and for the total of all environmental enforcement inspections carried out.



Graph 1 Reason for inspections performed in 2017 by supervisor

For those enforcement bodies where enforcement is the main focus of their work, the inspections in 2017 were mainly performed on their own initiative. For example, in the Department of Environment and Spatial Development - Enforcement Division - Environmental Inspectorate (formerly AMI), more than 80% of the inspections were carried out on their own initiative. In the case of VLM, this percentage was even almost 94, in the case of VAZG more than 99%, and in the Department of Environment and Spatial Development - Territorial Development, Environmental Planning and Projects Divisions & Flemish Planning Agency for the Environment (formerly ALBON), inspections were only performed on their own initiative. More than 75% of the inspections carried out by supervisors of NV De Scheepvaart were on-site inspections during unforeseen other work activities. At the Waterways and Sea Canal Agency, this percentage was almost 42%. A similar working method could be expected from the supervisors of the Agency for Roads and Traffic, considering they have identical supervisory powers and the 'many eyes in the field' principle, whereby 'environmental enforcement' is an additional task for these supervisors and part of their other activities (not an exclusive task) and where enforcement inspections are mainly carried out during the execution of other work. However, the above data show that 87% of the inspections carried out by the supervisors of the Agency for Roads and Traffic in 2017 were on-the-spot inspections on their own initiative.



Graph 2 Total number of inspections broken down by reason

Graph 2 shows that 88% of the total number of 37,089 environmental enforcement inspections in 2017 were self-initiated. 65% of self-initiated inspections were on-the-spot checks and 35% of the cases were documentary checks. Only 10% of the total number of inspections carried out by the regional supervisory bodies were inspections in response to complaints.

The following table not only shows the number of supervisors, the total number of FTEs deployed for enforcement¹⁷ duties and the number of inspections carried out by supervisors, but also provides further insight by dividing the number of environmental enforcement inspections by the number of supervisors in order to present the average number of inspections per supervisor. An inspection often involves more than just actually performing the inspection and going to the scene, so in order to obtain a more balanced picture, the number of inspections carried out by the supervisors will be divided by the total number of FTEs assigned to enforcement tasks per regional body; this makes it possible to also propose an average number of inspections per FTE for 2017. In this way, the preparations for each inspection and the administrative processing are also taken into account. For comparison, the average number of inspections per supervisor and the average number of inspections per FTE in 2015 and 2016 were included at the bottom of the table.

¹⁷ This concerns the FTEs deployed by supervisors for environmental enforcement tasks under the Environmental Enforcement Decree as well as the FTEs deployed for administrative support of environmental enforcement tasks by non-supervisors.

Regional enforcement body	Number of supervisors	Total FTEs	Number of environmental enforcement inspections	Average number of inspections per supervisor	Average number of inspections per FTE
Department of Environment and Spatial Development - Territorial Development, Environmental Planning and Projects Divisions & Flemish Planning Agency for the Environment (formerly ALBON)	13	2.6	206	16	79
Department of Environment and Spatial Development - Enforcement - Environmental Inspectorate (formerly AMI)	103	101.8	10,931	106	107
Department of Environment and Spatial Development - Territorial Development, Environmental Planning and Projects Divisions (formerly AMV)	9	1.05	606	67	577
Agency for Nature and Forests (ANB)	136	44.4	7,601	56	171
Agency for Waterways and Sea Canal (AWZ)	68	0.02	12	0	600
Agency for Roads and Traffic (AWV)	51	1.5	302	6	201
Flemish Agency for Care and Health (VAZG)	16	4.05	8,798	550	2172
NV De Scheepvaart	22	0.02	38	2	1900
Public Waste Agency of Flanders (OVAM)	159	10.6	2,663	17	251
Flemish Land Agency (VLM)	39	32.6	5,932	152	182
Flemish Environment Agency (VMM)	/	/	/	/	/
Department of Mobility and Public Works (MOW)	9	0.1	0	0	0
Total	625	198.724	37,089	59	187
				in 2015: 51	in 2015: 207
				in 2016: 43	in 2016: 177

Table 4 Efforts related to environmental enforcement tasks in 2017

Table 4 above shows that, on average, 59 inspections per supervisor were carried out in 2017. This is a sharp increase compared to the 43 inspections per supervisor in 2016 and the 51 inspections per supervisor in 2015.

However, if this data is reviewed for the various regional supervisory bodies separately, the picture is highly diversified. 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 performed inspections compared to the total number of FTEs deployed for enforcement tasks. This indicator provides a more accurate

picture of the efforts made by the regional enforcement bodies in 2017. Supervisors performed, on average, 187 inspections per FTE. This is an increase compared to the 177 environmental enforcement inspections per FTE in 2016, but a decrease compared to the 207 environmental enforcement inspections per FTE in 2015. For certain bodies, the average number of inspections per FTE is a fictitious scenario as less than 1 FTE was deployed for enforcement tasks within their organisation. This is the case for AWZ and NV De Scheepvaart 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 2017.

The 251 environmental enforcement inspections per FTE carried out by OVAM are a distorted picture, in view of the IMJV inspections. If these inspections are excluded, the more realistic figure of 49 inspections per FTE can be calculated.

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 PURSUED ENVIRONMENTAL ENFORCEMENT POLICY BY THE POLICE

For the preparation of this environmental enforcement report, the Flemish High Enforcement Council for Spatial Planning and Environment once again questioned the Federal and the Local police about their environmental enforcement activities. Among other things, they asked how many official reports on environmental offences were drawn up by the Federal police and by the Local police in the Flemish Region following a finding (based on a report, complaint or offenders caught in the act of a crime) between 1 January 2017 and 31 December 2017. Further details were also requested regarding the specific environmental enforcement activities of the Federal police and the activities of supervisors appointed within the Local police zones.

2.2.1 General

The following table gives an overview of the type of official report drawn up by the police force regarding the environment in 2017.

Type of Fact	Units			Total
	Federal Police	Local Police	Other	
Waste by business person	26	374	3	403
Waste transport	17	63	0	80
Waste: permit recognition	5	45	0	50
Waste by private person	57	2,485	0	2,542
Air pollution	3	443	0	446
Water pollution	14	163	1	178
Soil pollution	6	76	0	82
Environment: Noise pollution	0	157	0	157
Environmental taxes and duties	1	22	0	23
Environment flora fauna Animal Welfare ¹⁸	5	947	4	956
Environment flora fauna Nature Protection	1	150	1	152
Environment flora fauna Permit recognition	10	67	2	79
Environment flora fauna Destruction	1	217	0	218
Other phenomena linked to the environment	102	7,157	7	7,266
Total	248	12,366	18	12,632

Table 5 Official reports drawn up by police services concerning the environment for the year 2017 in the Flemish Region

The figures include both the initial official report and the simplified official report. Such simplified official reports are mainly drawn up for minor facts with, for example, unknown perpetrators, and these are not systematically passed on to the public prosecutor's office. The fact that they also contain the simplified official reports explains the difference between the number of official reports drawn up by the police force and the number of cases received – and drawn up by the police force – by the public prosecutor's offices (see chapter 4.1.).

The figures are taken from the General National Database. The National General Database (ANG) is the set of information systems of the integrated police intended to support the assignments of

¹⁸ Animal Welfare is not within the scope of DABM. However, it is possible that official reports were registered under this type of fact which do fall under DABM.

judicial or administrative police and ensure the most structured and secure information management.¹⁹

In total, 12,632 official reports were drawn up by the police force in the Flemish Region in 2017. Nearly 98% of these official reports were drawn up by the local police and 2% by the Federal police.

More than half, i.e. 57.5%, of the official reports were related to 'other phenomena linked to the environment'. This includes facts that are not covered by the Environmental Enforcement Decree, such as offences in the context of fireworks fraud. The second largest category is 'waste by private persons'. This category represents 20% of the total number of established offences.

Compared to the data in the Environmental Enforcement Reports of 2016, 2015 and 2014, 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.

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

The Flemish High Enforcement Council for Spatial Planning and Environment also surveyed the Federal police about its environmental enforcement activities for the Environmental Enforcement Report 2017. Among other things, they asked how many official reports were stored in the ANG in 2017, concerning environmental crime whereby the establishing unit belonged to the Federal police. These data were presented in 2.2.1 in table 5. In addition, they also asked how many people within the Federal police were actively involved in the enforcement of environmental law in the Flemish Region in 2017.

Within the Federal police, 104 people belonged to the Environmental Network in Flanders in 2017. The purpose of this Environmental Network is to exchange information on environmental violations, to provide mutual support, to jointly develop best practices and to conduct large-scale investigations effectively and efficiently. Within this network, 201 members of the local police are also active. It is true, however, that the 104 persons of the Federal police who are actively involved in environmental enforcement is both an overestimation and an underestimation. This number is simply generated by the Environmental Network database. The people in this database are not all actively engaged in environmental enforcement any more. On the other hand, it is also true that not all persons involved in environmental enforcement within the Federal police are included in this network. The 104 persons should therefore be regarded as indicative.

More precisely, 28 FTEs were actively involved in environmental enforcement in the Flemish Region within the Federal police in 2017. This concerns 6 FTEs in the Environmental Service of the Directorate for Combating Serious and Organised Crime (DJSOC/Environment), 5 FTE research capacity within the Federal Judicial Police, 1 FTE centre coordinator and 16 FTE phenomenon coordinators. These phenomenon coordinators investigate the phenomenon of environmental crime and monitor it. Compared to 2016, the number of FTEs actively involved in environmental enforcement in the Flemish

¹⁹ Art. 44/7 Police Service Act.

Region fell sharply within the Federal police. In 2016, there were still 38 FTEs. Investigative capacity in particular fell sharply over the past few years, from 31 FTEs in 2014 to 15 FTEs in 2015 and 2016, and to 5 FTEs in 2017.

The Federal police deals with supra-local phenomena that fall in the category of serious environmental crime. These include, among other things, repeated systematic actions in violation of regulations and other legal provisions; a strong interdependence with fraud; activities that take place on an organised basis, often in a business context; activities with a supra-regional distribution and international networks; activities that are aimed at substantial financial gains; and business activities that cause major and often irreparable damage to the environment and/or imminent danger to public health.

In 2017, a total of 248 official reports were included in the National General Database for environmental crime on the territory of the Flemish Region, with the establishing unit belonging to the Federal police. These are usually the more complex environmental dossiers. The findings are the result of a complaint or report or offenders caught in the act of a crime. 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.

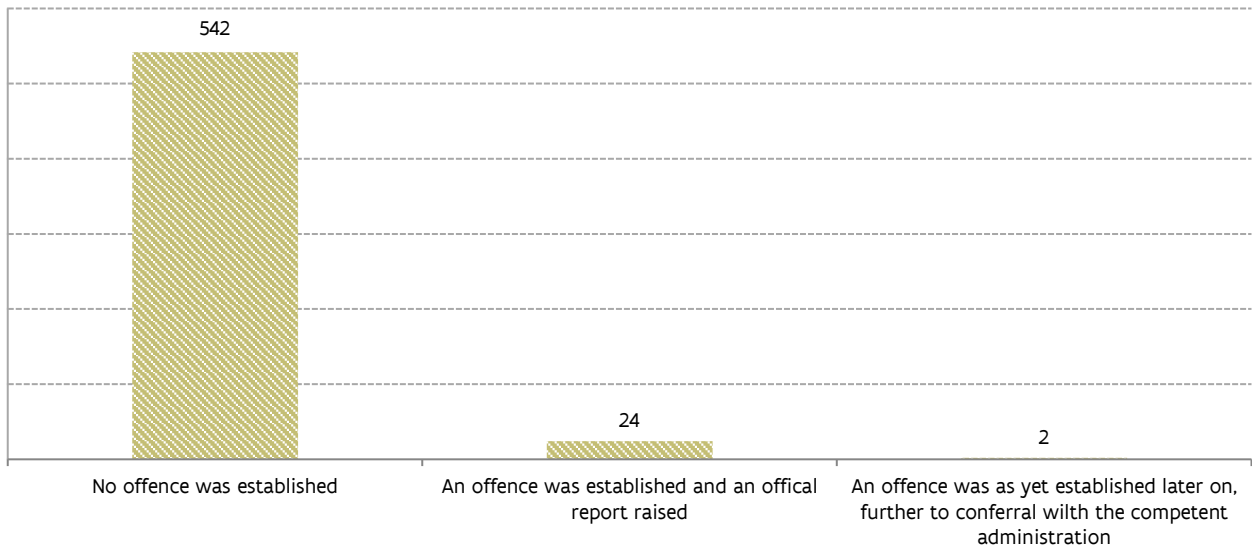
Proactive inspections related to waste shipments on the territory of the Flemish Region

In addition to the above reactive inspections, the federal police also carried out 568 proactive inspections in 2017 in the context of waste shipments on the territory of the Flemish Region. In 2016, 497 inspections were carried out. Within the Federal police, it was decided to tackle waste that poses a serious threat to public health or the environment and generates large (illegal) profits. This focus on inspections of waste shipments by the Federal police is related to the National Security Plan 2016-2019²⁰ in which the Federal Government has decided to consider waste fraud, among other things, as a priority. It should be noted that these figures for waste transport only include those shipments of waste for which an ECO form²¹ has been drawn up 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 underestimated.

The graph below gives an overview of the results of the 568 inspections carried out by the federal police in 2017 related to waste shipments.

²⁰ <http://www.politie.be/files/fed/files/ORG/INT/NVP2016-2019.pdf>

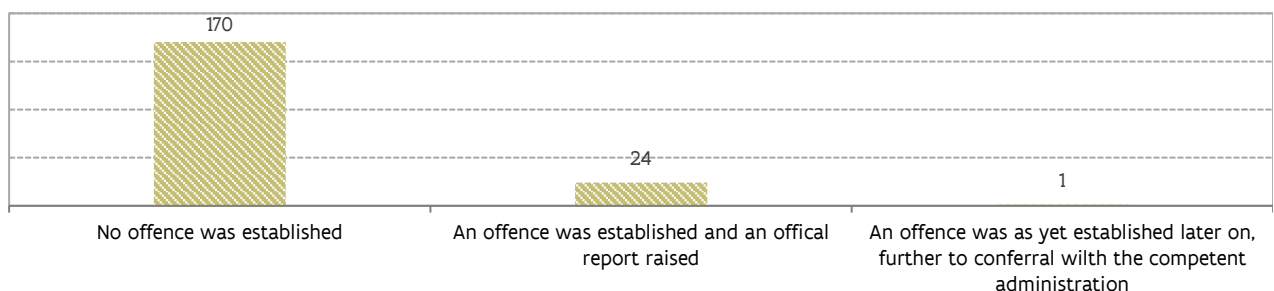
²¹ The police officer draws up a document called ECO waste form (EFA) for all inspections waste shipments (including manure). This document makes it possible to track and trace part of a waste stream.



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 2017

No infringements were found in 542 inspection cases. An infringement was detected during 24 inspections and an official report was drawn up immediately when the ECO form was filled. It is possible that violations were found afterwards, after the data had been checked by the administration. Currently, 2 additional infringements have been detected as a result. These were included in graph 3 as 'A violation was found following feedback from the authorised administration'. When completed, the ECO waste form is sent to the Environment Department of the Federal Judicial Police for further analysis.

We should also mention that the local police also carried out waste shipment inspections in 2017. In 2017, 195 waste transport checks were carried out by the local police. In the case of 170 inspections carried out in 2017, no infringements were detected. 24 official reports were drawn up at the time of filling in the ECO form. One additional violation was 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 2017

2.2.3 Evaluation of the pursued environmental enforcement policy by the Local police

The general section (2.2.1) on police services contains the official reports drawn up by the Local police and the Federal police in 2017 on a particular environmental theme. The activities of the supervisors of the Local police are discussed in this chapter, after the activities of the Federal police. This is due to the fact that the Local police has distinct tasks with regard to the enforcement of environmental legislation. On the one hand, police officers in some cities and municipalities have been appointed as supervisors within a police zone. On the other hand, the Local police are responsible for basic police care and, more specifically, they carry out all administrative and judicial police tasks that are necessary to inspect local events and phenomena that occur on the territory of the police zone, as well as the performance of certain police tasks of a federal nature. Of course, environmental legislation is also enforced in this context, even if it is not as a supervisor within the framework of the Environmental Enforcement Decree. Within various police zones, specialised environmental units are set up or it is decided to have one or more employees specialise in environment-related subjects. These are not always employees who have been appointed as supervisors; they may also work only as officers or agents of the judicial police. It should also be mentioned that 201 persons from the Local police belonged to the Environmental Network in 2017, as described earlier in the section on the Federal police.

The superintendents of the Flemish police zones were also asked to report about the activities of these supervisor(s) for this environmental enforcement report, only if a supervisor was appointed within the police zone. This section should be read next to the evaluation of the pursued local environmental enforcement policy (6).

In addition to appointing a municipal supervisor within its own staff or by an inter-municipal association, a choice can be made to shape municipal environmental enforcement by appointing supervisors within the Local police – possibly via a collaboration agreement. The supervisors of the Local police, just like the local supervisors appointed within the municipality itself or within an inter-municipal association, are tasked with supervising the following legislation in establishments classified in the open field and in the non-classified establishments as establishments of class 2 and 3 in the classification list of VLAREM II²²:

- ▶ 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, and as regards chapter two;
- ▶ the Noise Abatement Act;
- ▶ articles 11, 12, 13, 23, 25, §1, article 39 and 40 of the Materials Decree;
- ▶ the Groundwater Decree;
- ▶ the Environmental Permits Decree;
 - ▶ the decree on the Environmental Permit and title V of DABM (from 23/2/2017);

²² Until 23/2/2017 this was VLAREM I

- ▶ the Manure Decree and its implementing decrees;
- ▶ the decrees implementing these acts and decrees;
- ▶ chapter 6.3 of part 6 of title II of the VLAREM regulation;
- ▶ Regulation (EC) no. 1005/2009 of the European Parliament and the Council of 16 September 2009 on ozone-depleting substances;
- ▶ Regulation (EC) no.1069/2009 of the European Parliament and 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 the Council of 29 April 2004 on persistent organic pollutants and amending directive 97/117/EEC;
- ▶ Regulation (EC) No 1013/2006 of the European Parliament and the Council of 14 June 2006 on the transfer of waste materials;
- ▶ the Pesticides Decree and its implementing decrees;
- ▶ Regulation (EU) no. 517/2014 of the European Parliament and the Council of 16 April 2014 on fluorinated greenhouse gases and repealing Regulation (EC) no. 842/2006.

The local supervisor may also in the case of establishments classified as class 1 establishments in accordance with Annex 1 to title II²³ of the VLAREM regulation – within the context of the aforementioned laws, decrees and their implementing regulations – make findings on the basis of sensory perception and investigate cases as referred to in article 16.3.14 of the Environmental Enforcement Decree.

In a similar way to the survey of municipal supervisors (see 2.3.5), the survey of police zones inquired about the number of inhabitants in the police zone, the fact whether or not the police zone can call on an appointed supervisor, the number of supervisors, the dedicated time and the notification of supervisors, and the number of inspections and findings carried out, together with the results of the inspections carried out. The results of inspections carried out will be discussed in Chapter 3 'Evaluation of the use of the individual environmental enforcement instruments and safety measures'. This section will focus on the response rate, the number of appointed supervisors in the Local police zones and the reporting to the Department of Environment and Spatial Development, the average time spent by these supervisors, the number of inspections carried out in response to complaints and the number of self-initiated inspections, 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 of the Local police to the survey

In analogy with the previous environmental enforcement reports, a classification was chosen based on the number of inhabitants in the police zone. This means that 5 police zone classes will be used.

²³ From 23/02/2017
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Police zones	Number of police zones in the class in question	Number of responding police zones per class in 2017
≤ 24,999	7	5
25,000 - 49,999	62	44
50,000 - 74,999	22	15
75,000 - 99,999	9	8
≥ 100,000	9	5
Total	109	77

in 2016: 72

Table 6 Classification categories of the Flemish police zones including the number of police zones per class and the number of respondents per class

The VHRM received a completed questionnaire from 77 of the 109 police zones²⁴ in the Flemish Region. This represents a response rate of 71%. This is an increase of the response rate from 65% in 2016 and 2015 but it is still significantly lower than the response rate of the Environmental Enforcement Report 2013 and the Environmental Enforcement Report 2014, which were 81% and 83% respectively. This lower rate could be explained by the fact that the VHRM has conducted digital surveys of the enforcement bodies since the Environmental Enforcement Report 2015.

Appointment and time spent by Local police supervisors

Article 16, §1 of the Flemish Government Order of 12 December 2008 implementing title XVI of the decree of 5 April 1995 governing the general provisions on environmental policy, in short the Environmental Enforcement Decree, stipulates that municipalities must have at least one local supervisor at their disposal.

A municipality with more than three hundred class 2 establishments according to the classification list of title II of VLAREM or more than thirty thousand inhabitants if the number of establishments is insufficiently known must have at least two local supervisors at its disposal.

Since it is therefore possible to appoint supervisors within the police zones, the police zones in the Flemish Region were already asked whether or not a supervisor was appointed within their police zone, how many supervisors were appointed and how much time they spent in 2017 on environmental enforcement tasks within the context of the Environmental Enforcement Decree. The following table gives an overview.

²⁴ The number of police zones decreased in 2017 in view of the merger of a number of police zones.

	≤ 24,999	25,000 - 49,999	50,000 - 74,999	75,000 - 99,999	≥ 100,000	Total 2017	Total 2016	Total 2015
Response	5	44	15	8	5	77	72	70
Police zone with appointed supervisor	1	11	7	6	2	27	21	32
Police zone without appointed supervisor	4	33	8	2	3	50	51	38
Number of appointed supervisors	1	14	12	8	10	45	36	60
<i>Average number of supervisors per police zone</i>	<i>1.00</i>	<i>1.27</i>	<i>1.71</i>	<i>1.33</i>	<i>5.00</i>	<i>1.67</i>	<i>1.71</i>	<i>2</i>
Total time spent on environmental enforcement tasks (FTE)	1.00	3.87	5.72	6.40	8.00	24.99	25.51	26.36
of which FTE deployed by the supervisor for environmental enforcement duties in the context of the Environmental Enforcement Decree	0.50	3.57	4.87	5.70	6.00	20.64	18.7	21.9
of which FTE deployed for administrative support of environmental enforcement tasks by non-supervisors	0.50	0.30	0.85	0.70	2.00	4.35	6.81	4.46
<i>Average time spent per supervisor on environmental enforcement tasks (FTE)</i>	<i>1.00</i>	<i>0.28</i>	<i>0.48</i>	<i>0.80</i>	<i>0.80</i>	<i>0.56</i>	<i>0.71</i>	<i>0.44</i>

Table 7 Overview of the appointment of supervisors within the local police and the efforts related to environmental enforcement tasks in 2017 (per inhabitant)

From table 7 it can be deduced that 27 of the 77 responding police zones used the services of a supervisor appointed within their own police zone in 2017. This corresponds to 35% of the total number of responding police zones. This is an increase compared to the 29% in 2016 but still a decrease compared to 2015 when almost 46% of the responding police zones had a supervisor at their disposal.

In 2017, the total number of appointed supervisors within the Local police was 45, which corresponds to almost 1.67 supervisors per police zone, spread over these police zones that had in fact appointed at least one supervisor. The total number of appointed supervisors within the Local police increased in 2017 compared to 2016, as did the response rate and the number of zones with an appointed supervisor. However, the average number of supervisors per police zone dropped further in 2017, compared to 2016 and 2015.

Despite the fact that the number of supervisors appointed by the Local police increased in 2017 compared to 2016, a slight decrease in the number of FTEs deployed for environmental enforcement tasks within the responding police zones can be observed compared to 2016. In 2016, just over 25 FTEs were deployed for environmental enforcement tasks within police zones, and just under 25 FTEs in 2017. This results in an increase in the average amount of time spent per supervisor on environmental enforcement duties in 2017 compared to 2016. In 2016, this amounted to 0.71 FTEs. In 2017, this decreased to 0.56 FTEs. In general, we can conclude that the average supervisor in the local police spent half of his working time on environmental enforcement tasks in 2017. However, the figures in table 7 show a fluctuating picture over the years for this statement, although it can generally be observed that supervisors appointed within the local police zones were not full-time

deployed for environmental enforcement duties. The average time spent²⁵ per Local police supervisor on environmental enforcement tasks – this includes the FTE spent on administrative support - was 0.44 FTEs in 2015, 0.71 FTEs in 2016 and 0.56 FTEs in 2017. There was an average of 1.67 supervisors per police zone with an appointed supervisor in 2017 so the average time spend was²⁶ of 0.93 FTEs for enforcement duties in the police zones that had appointed a supervisor within their own police zone. For 2016, this ratio was 1.21 FTEs, and in 2015 it was 0.83 FTEs.

Environmental enforcement inspections performed by Local police supervisors

To gain an insight into the activities of supervisors appointed by the Local police, the following table shows the total number of environmental enforcement inspections carried out per police zone category, as well as the average number of environmental enforcement inspections per supervisor and the average number of inspections per FTE. The survey therefore explicitly asked about the number of environmental enforcement inspections performed in the context of the Environmental Enforcement Decree by supervisors of the police zone between 1 January 2017 and 31 December 2017. Table 8 provides an overview of this. Comparisons with 2015 and 2016 are also provided on the basis of the figures from previous environmental enforcement reports.

	≤ 24,999	25,000 - 49,999	50,000 - 74,999	75,000 - 99,999	≥ 100,000	Total 2017
Response	5	44	15	8	5	77
Number of appointed supervisors	1	14	12	8	10	45
Number of environmental enforcement inspections carried out	28	1,417	1,207	628	1,494	4,774
<i>Average number of environmental enforcement inspections per supervisor</i>	<i>28</i>	<i>101</i>	<i>101</i>	<i>79</i>	<i>149</i>	<i>106</i>
2016	0	25	19	348	578	99
2015	5	22	61	303	322	94
<i>Average time spent per supervisor on supervisory tasks (FTE)</i>	<i>1.00</i>	<i>0.28</i>	<i>0.48</i>	<i>0.80</i>	<i>0.80</i>	<i>0.56</i>
2016	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
<i>Average number of environmental enforcement inspections per FTE</i>	<i>28</i>	<i>366</i>	<i>211</i>	<i>98</i>	<i>187</i>	<i>191</i>
2016	0	104	18	370	193	139
2015	250	38	198	570	322	215

Table 8 Efforts with regard to environmental enforcement inspections carried out by Local police supervisors in 2017

In 2017, the 45 appointed supervisors of the local police carried out 4,774 environmental enforcement inspections. In 2015, 5,661 environmental enforcement inspections were carried out by 60 local police supervisors and in 2016, 3,550 inspections were carried out by 36 supervisors. The number of

²⁵ The average time spent per supervisor is the total number of reported FTEs spent on environmental enforcement tasks, divided by the total number of reported appointed supervisors.

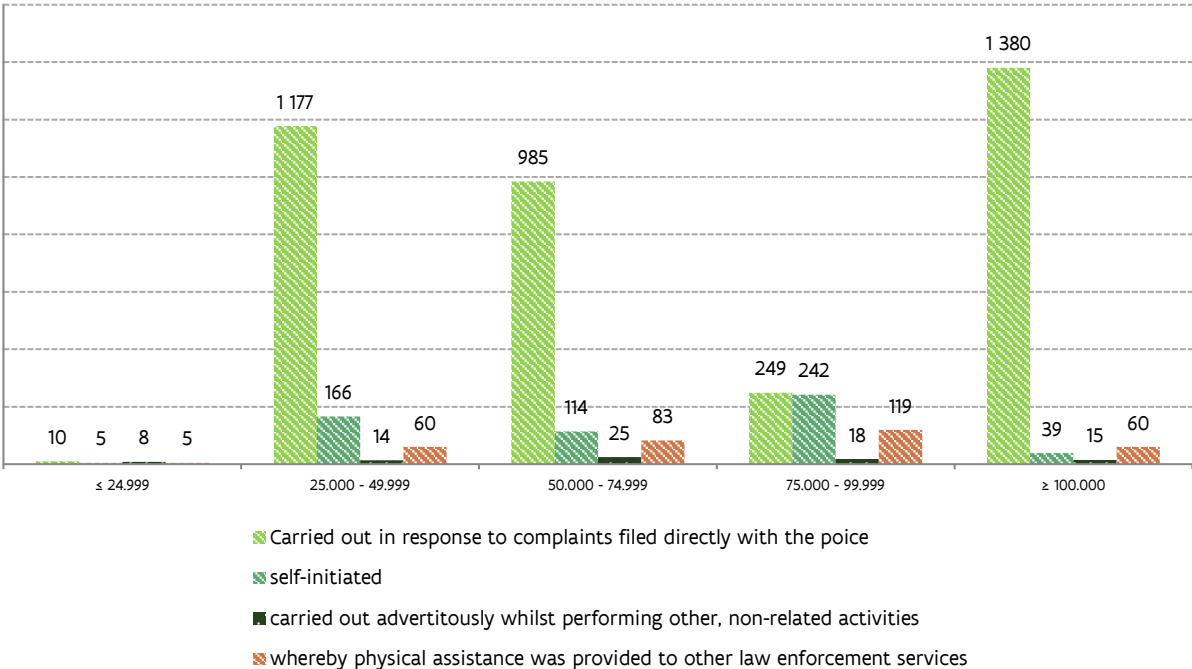
²⁶ This time spend is calculated by multiplying the average time spent per supervisor on supervisory duties by the average number of supervisors per police zone (that actually also appointed a supervisor). In this way, an overview can be given of the average FTEs deployed for environmental enforcement tasks within a police zone that actually appointed one or more supervisors.

appointed supervisors rose by 25% in 2017 compared to 2016. The number of environmental enforcement inspections carried out increased by 34% in percentage terms in 2017 compared to 2016.

The average number of environmental enforcement inspections per supervisor was 99 in 2016 and 94 in 2015. In 2017, this rose to an average of 106 environmental enforcement inspections per supervisor. Therefore on average, the appointed supervisors of the responding police zones carried out more inspections.

Across the various categories of police zones, the average number of inspections per FTE in 2017 was 191. This represents an increase compared to the 139 inspections per FTE in 2016.

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, 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 2017.



Graph 5 Number and type of environmental enforcement inspections carried out in the context of the Environmental Enforcement Decree by Local police supervisors in 2017

As in previous years, graph 5 shows that the majority of environmental enforcement inspections were carried out on the basis of complaints made directly to the police, namely 80% of the total number of environmental enforcement inspections, or 3,801 inspections. 1% of the inspections were carried out adventitiously in the course of other non-enforcement-related activities and 12% of the total number of inspections were self-initiated. In 2016, 6% of the inspections were self-initiated. The fact that more than 1/10 of the inspections were self-initiated in 2017 may indicate an increase in programmatic enforcement.

2.3 EVALUATION OF THE PURSUED PROVINCIAL ENVIRONMENTAL ENFORCEMENT POLICY

2.3.1 Provincial governors

The powers of the provincial governors of the 5 Flemish provinces were very clearly defined in the Environmental Enforcement Decree. In particular, they have the power to impose administrative measures and/or safety measures in the context of:

- ▶ Article 2 of the Act of 26 March 1971 governing the protection of surface waters from pollutants;
- ▶ Article 12, §1 of the decree of 23 December 2011 concerning the sustainable management of material cycles and waste materials;
- ▶ The operation without a permit of class 2 or 3 establishments in breach of environmental requirements.

The provincial governors were asked to provide an overview of the enquiries/requests they received to impose administrative measures in 2017 as well as the number of administrative measures actually imposed in response to these enquiries/requests. In addition, they were asked to indicate how many enquiries the provincial governor received regarding the imposition of security measures and how many security measures were actually imposed.

Administrative measures

The provincial governor may be asked or requested to impose administrative measures. Enquiries about the imposition of administrative measures are understood to mean enquiries from supervisors to the provincial governor about taking administrative measures. Administrative measures may also be the result of 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 act of 12 January 1993 concerning the right of action for the protection of the environment. This request must be made by registered letter to persons authorised to impose administrative measures, in the event of a sufficiently substantiated request that demonstrates that there is an environmental infringement or environmental offence and according to a strict procedure with short terms.

For this environmental enforcement report, the VHRM received an answer from all provincial governors. The provincial governors all indicated that they had not imposed any administrative measures in 2017.

The previous environmental enforcement reports also showed that these options, i.e. enquiries/requests for the imposition of administrative measures as well as the actual imposition of administrative measures by the provincial governors, are hardly used. Since the coming into force of the Environmental Enforcement Decree, the responding provincial governors received a total of only 14 requests/enquiries to impose administrative measures. In addition, we can report that the provincial governor of Limburg only imposed 1 administrative measure in 2017 which was a kind administrative coercive measure whereby action was taken in effect against the established environmental offence or environmental infringement.

We conclude that the "enquiries/requests concerning the imposition of administrative measures" instrument addressed to the provincial governor and its effective imposition is used hardly ever or not at all. This can possibly be explained by the fact that supervisors – whether or not regional or local – are better placed to impose administrative measures themselves, since supervisors can act in complete independence and neutrality (see article 16.3.3 of the Environmental Enforcement Decree) and with the necessary expertise, qualifications and characteristics (see article 16.3.2 of the Environmental Enforcement Decree), rather than submitting a request to the provincial governor. Another or additional explanation could be that third parties who can submit requests for the imposition of administrative measures to the provincial governor are not aware of this possibility and initially choose to contact the environmental department of the municipalities or the Local police (first-line treatment) in order to contact the supervisor.

Safety measures

Article 16.7.1 of the Environmental Enforcement Decree stipulates that safety measures are measures whereby, among other things, the provincial governor can take or impose all actions that are deemed necessary in the given circumstances to eliminate, reduce to an acceptable level or stabilise a significant risk to man or the environment.

The provincial governors – and also the mayors – can take the security measures ex officio or upon the request of a supervisor. For this reason, the provincial governors were asked how many enquiries to impose security measures were submitted and how many security measures were effectively imposed by the provincial governor.

In 2017, no security measures were imposed by the provincial governors.

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

Article 16.3.1, §1, 2° of DABM stipulates that province staff members may be appointed as supervisors by the deputation. These are the so-called provincial supervisors. In accordance with this provision, the VHRM considered it appropriate to survey the court clerks of the five Flemish provinces about the appointment of these supervisors and the efforts with regard to environmental enforcement tasks.

The provincial supervisors are authorised to supervise 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 the non-navigable watercourses;
 - ▶ article 12 §1 of the Materials Decree, as regards the category 2 and 3 unnavigable watercourses and their appurtenances, as provided for in the Act of 28 December 1967 on unnavigable watercourses;
- the decrees implementing the law and decree referred to above with regard to the category 2 and 3 unnavigable watercourses and their appurtenances, as provided for in the Act of 28 December 1967 on unnavigable 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 the non-navigable watercourses.

The provincial noise supervisors are authorised to supervise the following regulations:

- ▶ the Noise Abatement Act and its implementing decrees;
- ▶ the Environmental Permits Decree, the decree concerning the environmental permit, title V of the DABM, and the implementing decrees, with regard to noise aspects for establishments classified as class 2 and 3 in accordance with Annex 1 to title II of the VLAREM regulation.

In the case of establishments classified as class 1 establishments in accordance with Annex 1 to title II 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.

As part of the survey for this environmental enforcement report, the VHRM received an answer from the five provinces regarding the provincial supervisors and their activities in 2017.

The provinces of Limburg, Flemish Brabant and West Flanders reported, just like in 2016, that no supervisors had been appointed in accordance with the Environmental Enforcement Decree in 2017. Only the province of Antwerp and the province of East Flanders had access to provincial supervisors in 2017, more specifically to 12 and 1 provincial supervisors respectively, all of which were registered with the Territorial Development, Environmental Planning and Projects Division of the Department of Environment and Spatial Development. A total of 0.6 FTEs was 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 2017. In addition, 0.06 FTEs were deployed for administrative support by non-supervisors.

In 2017, 10 environmental enforcement inspections were carried out in the province of Antwerp as a result of a complaint or report, and 18 inspections on their own initiative. An infringement was found during 28 inspections and a warning was issued for 19 inspections.

The provincial supervisor of the province of East Flanders carried out 2 inspections in 2017 as a result of a complaint or report, and 50 inspections were carried out adventitiously on the spot in the course of other non-enforcement-related activities. An infringement was found during 50 inspections and a warning was issued for 50 inspections.

2.3.3 Provincial powers related to unnavigable watercourses (except those included in the Environmental Enforcement Decree) of designated provincial staff (supervision not in the context of the Environmental Enforcement Decree)²⁷

In addition to the tasks of the provinces with regard to the Environmental Enforcement Decree, their responsibility as waterway manager must also be taken into account. In this context, the province also has a supervisory role for legislation that was not included in title XVI of the Environmental Enforcement Decree but for which provincial staff were appointed per province to carry out this supervisory position, namely:

- ▶ the Act of 28 December 1967 on unnavigable watercourses;
- ▶ The royal decree of 5 August 1970 governing the general police regulations for unnavigable watercourses.

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

These are a few important points of attention:

- ▶ 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 inform the public about these focus points during field visits. The drawing up of official reports (not part of DABM) almost always results in dismissal (lowest category of offences with very short limitation periods). This means that official reports are often not drawn up. This does not mean that infringements remain unnoticed. The findings are made, for example, in a site visit report and the offender is informed of the infringement and asked to remedy the problem.

²⁷ 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 following table shows the number of provincial water-awareness employees and the number of FTEs spent on inspections of unnavigable watercourses in 2017.

	Number of provincial collaborators designated to carry out inspections	Number of FTEs spent on the inspections	Number of inspections carried out	Number of official reports drawn up	Number of regularisation warnings drawn up
Province of Limburg	9	1	72	0	13
Province of Flemish Brabant	0	0	0	0	0
Province of Antwerp	12	2.5	0	0	41
Province of East Flanders	14	1.6	495	0	116
Province of West Flanders	8	1	1	200	20
TOTAL	43	6.1	568	200	190

Table 9 Number of inspections carried out under the Act of 28 December 1967 on unnavigable waterways and the Royal Decree of 5 August 1967 on the general police regulations for unnavigable waterways by the designated provincial staff between 1 January 2017 and 31 December 2017.

The province of Flemish Brabant has a total of 16 people in charge of the daily management of the waterways. They make assessments in the field and write letters to landowners and the municipalities if they notice irregularities. In exceptional cases, the province asks the municipality or the police to make an assessment and write an official report. However, the number of offences is not registered. The number of inspections in this context is much higher than the number of inspections under the DABM regulations. The majority of the established offences concern 'bank damage'.

2.4 EVALUATION OF THE PURSUED MUNICIPAL ENVIRONMENTAL ENFORCEMENT POLICY

As with the previous enforcement bodies and on the basis of the supervisory tasks performed by the Flemish cities and municipalities, an attempt is being made to provide insight into the efforts they have made in the field of local environmental enforcement.

Comparable to the Flemish provinces, the supervisory task of the Flemish cities and municipalities is twofold. This division is expressed in practice by the fact that the Environmental Enforcement Decree stipulates enforcement duties for two municipal bodies: the mayor and the municipal supervisor.

The powers of the mayors of the 308 Flemish cities and municipalities are very clearly defined in the Environmental Enforcement Decree. In particular, mayors have the power to impose safety measures and administrative measures if:

1. there has been an infringement of article 2 or chapter IIc of the Surface Waters Act;
2. there has been an infringement of article 12, §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.

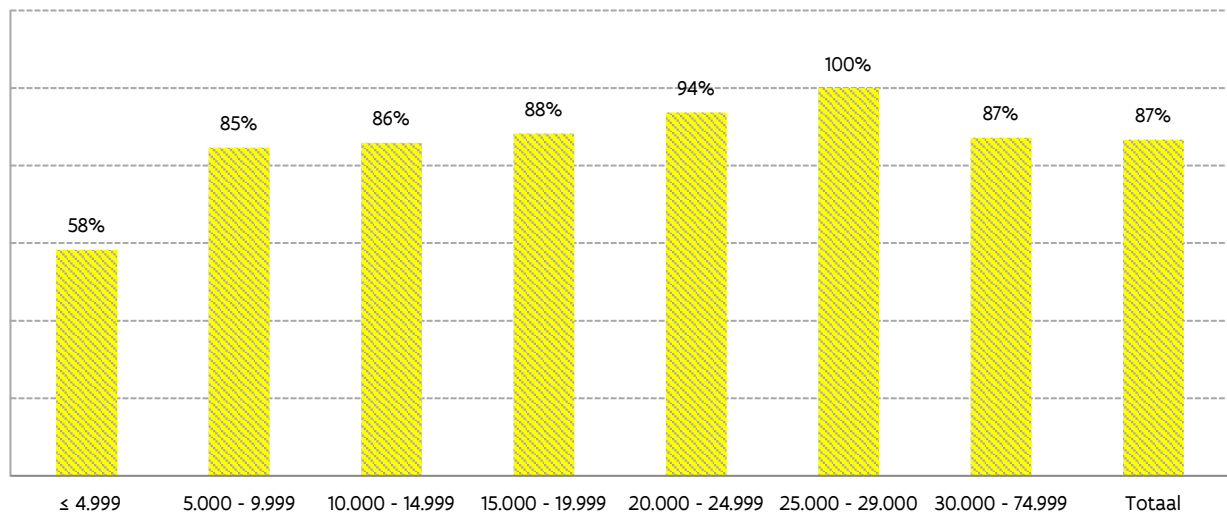
The second municipal player – the municipal supervisor – was given the same supervisory duties as the local police supervisors and the inter-municipal associations (see 2.2.3).

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 zone 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.

2.4.1 Mayors

As in previous years, the survey of the mayors in cities and municipalities of the Flemish Region for this environmental enforcement report was in line with the survey of the municipal supervisor(s). Mayors were asked to report on their activities relating to the imposition of administrative measures and safety measures in 2017.

Response



Graph 6 Response rate of the mayors of Flemish cities and municipalities per municipalities' class in percentages

The Flemish High Enforcement Council for Spatial Planning and Environment received a response from 267 mayors in the Flemish Region (out of a total of 308). This represents a response rate of 87%. Since the first environmental enforcement report (EER 2009) was published, the VHRM has seen a steady increase in the response rate, with the exception of a sharp decline in 2016. While this response rate was 60% for EER 2009, it gradually increased to 79% in 2015 before falling back below the 2009 level in 2016. The VHRM did take some measures after 2016. For example, a digital registration form was used for supervisors and the permanent secretariat of the VHRM contacted the municipalities that failed to respond, individually and directly. With a response rate of 87% for 2017, the highest response rate was achieved since the first environmental enforcement report was drawn up. 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

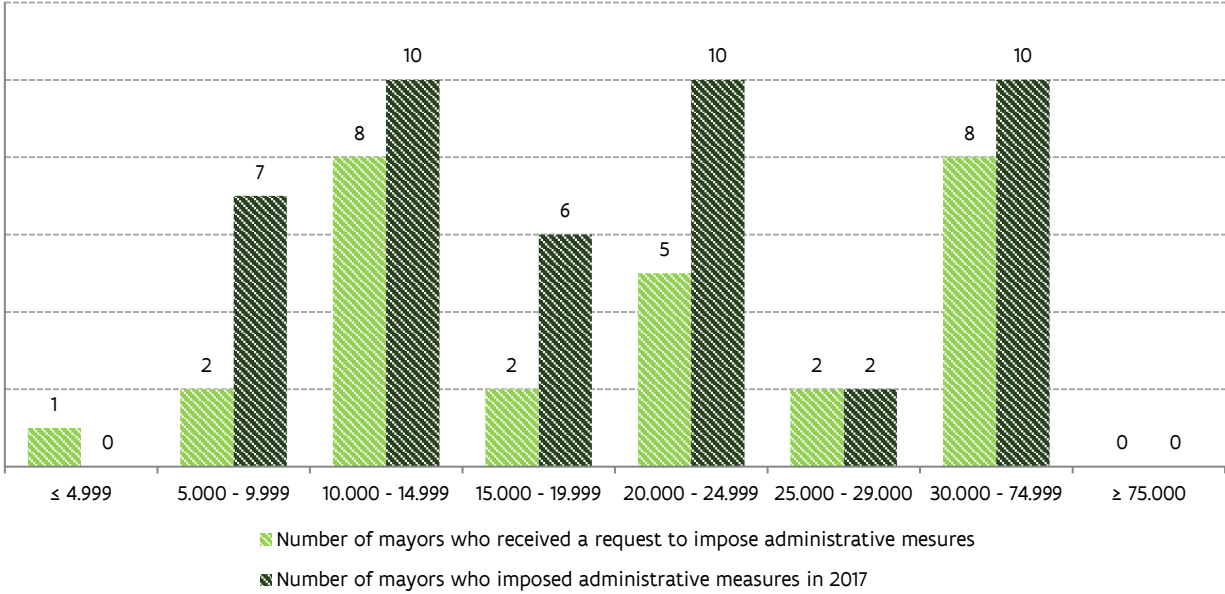
As already mentioned, mayors in the Flemish Region have the power to impose administrative measures. This power may be exercised in response to an enquiry or a request to that effect. However, mayors can also take administrative measures *ex officio*.

The term 'request for the imposition of administrative measures' relates to the requests to impose administrative measures made by regional supervisors, municipal supervisors, Local police supervisors, provincial governors, etc. to the authorised parties, including the mayor, as referred to in article 16.4.6 of the Environmental Enforcement Decree to take administrative measures.

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 right of action for the protection of the environment.

The following graph gives an overview of the number of responding mayors who received an enquiry/request to take administrative measures and the number of responding mayors who actually imposed an administrative measure in 2017.



Graph 7 The number of responding mayors who received an enquiry/request to impose administrative measures and the number of responding mayors who imposed administrative measures in 2017

Graph 7 shows that 28 of the 267 responding mayors received an enquiry/request to impose administrative measures in 2017. This corresponds to more than 10% of the responding mayors. The graph also shows that 45 mayors imposed administrative measures in 2017. This corresponds to nearly 17% of the responding mayors. This is a slight increase compared to 2016. At that time, 10% of the responding mayors received a request/enquiry to impose administrative measures and 14% of the responding mayors imposed administrative measures.

Table 10 gives an overview of the number of requests for the imposition of administrative measures received by mayors from the various enforcement bodies and the number of requests for the imposition of administrative measures submitted to mayors by third parties.

Mayor of a city/municipality with a population of:	Enquiries/requests received by the mayor regarding the imposition of administrative measures, submitted by:						
	regional supervisors	municipal supervisors	intermunicipal associations	police zone	provincial supervisors	requests submitted by third parties	Total
≤ 4,999	0	0	0	0	0	1	1
5,000 - 9,999	0	0	0	0	0	2	2
10,000 - 14,999	0	5	0	7	0	16	28
15,000 - 19,999	2	19	0	1	1	1	24
20,000 - 24,999	1	4	0	0	0	3	8
25,000 - 29,000	0	2	0	0	0	0	2
30,000 - 74,999	0	6	0	6	0	4	16
≥ 75,000	0	0	0	0	0	0	0
Total	3	36	0	14	1	27	81
<i>in 2016</i>	<i>1</i>	<i>5</i>	<i>1</i>	<i>3</i>	<i>0</i>	<i>14</i>	<i>24</i>

Table 10 The number of enquiries and requests concerning the imposition of administrative measures received by mayors of Flemish cities and municipalities in 2017

In total, all the mayors together received 81 enquiries/requests for the imposition of administrative measures in 2017. Just under half of these 81 enquiries/requests, i.e. 44%, were submitted by municipal supervisors. In addition, 33% of the total number of enquiries/requests for the imposition of administrative measures were submitted by third parties.

Compared to previous years, these 81 enquiries/requests represent a sharp increase compared to the 24 requests in 2016; however, it should be noted that as many as 123 enquiries/requests were received by mayors in 2015. The fluctuating data may probably be explained in part by the changes in the response rate.

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

The possible administrative measures that can be imposed are:

- ▶ injunction: this is an order from the authorised supervisor to the suspected offender to cease certain activities, work or the use of objects;
- ▶ regularisation order: this is an order from the authorised supervisor to the suspected offender to take certain measures with a view to ending an environmental infringement or an environmental crime, undoing its consequences and preventing its recurrence;
- ▶ administrative coercive measure: in this case, the authorised supervisor takes action against the identified environmental infringement and the environmental offence;
- ▶ or a combination of these measures.

Table 11 gives an overview of the number of administrative measures imposed by mayors in 2017. It also indicates the type of administrative measures imposed and the number of these administrative measures that were not implemented within the imposed deadline.

Mayor of a city/municipality with a population of:	Administrative measures imposed by the mayor					
	Injunction	Regularisation order	Administrative coercive measure	Combination (injunction, regularisation, administrative coercive measure)	Total	It was not possible to carry out the measure before the required deadline
≤ 4,999	0	0	0	0	0	0
5,000 - 9,999	2	9	1	1	3	3
10,000 - 14,999	6	15	5	13	39	10
15,000 - 19,999	1	15	2	2	20	8
20,000 - 24,999	5	10	2	1	18	1
25,000 - 29,000	0	1	1	0	2	1
30,000 - 74,999	6	9	0	8	23	5
≥ 75,000	0	0	0	0	0	0
Total	20	59	11	25	115	28
<i>in 2016</i>	<i>10</i>	<i>34</i>	<i>6</i>	<i>5</i>	<i>55</i>	<i>10</i>

Table 11 The number and type of administrative measures imposed by mayors of Flemish cities and municipalities in 2017

Table 11 shows that a total of 115 administrative measures were imposed by mayors in 2017. This is a significant increase compared to the 55 administrative measures imposed by mayors in 2016. This may be explained – at least partly – by the lower response rate in 2016. The average number of administrative measures per mayor was 2.6 in 2017, compared to 2.1 in 2016.

As in 2016, the majority of the administrative measures imposed in 2017 were regularisation orders. The ratio for 2017, i.e. 51%, is lower than in previous years. In 2016, this ratio was 62% of the total number of administrative measures imposed; in 2015 it was as high as 78%. In addition, 17% of the total number of administrative measures in 2017 were injunctions and 10% administrative coercive measures. A remarkable observation in 2017 is that for nearly 1/4 of administrative measures it was not possible to enforce the imposed administrative measure before the imposed deadline. In 2016, this was almost 78% of all administrative measures.

Safety measures

In addition to imposing administrative measures, mayors are also authorised to impose safety measures. Safety measures are measures whereby persons as specified in article 16.4.6, including the mayor, can take or impose all actions that they deem necessary in the given circumstances to eliminate, reduce to an acceptable level or stabilise a significant risk to man or the environment. Safety measures may include, among other things (article 16.7.2 of the Environmental Enforcement Decree):

- ▶ the suspension or execution of works, operations or activities immediately or within a specified period;

- ▶ the prohibition on the use or the sealing of buildings, installations, machinery, apparatus, means of transport, containers, land and anything therein or thereon;
- ▶ the total or partial closure of an establishment;
- ▶ the confiscation, storage or removal of relevant items, including waste materials and animals;
- ▶ the prohibition or evacuation of certain areas, grounds, buildings or roads.

The following table gives an overview of the number of mayors who received a request to impose a safety measure and the number of mayors who actually imposed a safety measure in 2017, whether or not on the basis of an enquiry or on their own initiative.

Mayor of a municipality/city with a population of:	The number of mayors who received an enquiry/request to impose security measures in 2017	The number of mayors who imposed security measures in 2017
≤ 4,999	0	0
5,000 - 9,999	2	2
10,000 - 14,999	4	7
15,000 - 19,999	5	4
20,000 - 24,999	0	0
25,000 - 29,000	1	2
30,000 - 74,999	1	2
≥ 75,000	0	0
Total	13	17
<i>in 2016</i>	4	8

Table 12 The number of responding mayors who received an enquiry to impose safety measures and the number of responding mayors who imposed safety measures in 2017

Table 13 shows that 13 of the 267 responding mayors received an enquiry to impose safety measures. This corresponds to 5% of the total number of responding mayors. In 2016, 2% of the responding mayors received a request to impose safety measures.

The number of mayors who actually imposed a safety measure, either in response to a question or on their own initiative, is slightly higher and amounts to 6% of the total number of responding mayors. In 2016, 4% of the total number of responding mayors imposed a safety measure.

Mayors can impose safety measures *ex officio*, but they can also do so on the basis of a request from a supervisor. Table 14 provides an overview of the number of enquiries submitted to mayors in 2017 in the different classes of cities and municipalities and which supervisors made this enquiry.

Mayor of a city/municipality with a population of:	Enquiries/requests received by the mayor regarding the imposition of safety measures, submitted by:					
	regional supervisors	municipal supervisors	intermunicipal associations	police zone	provincial supervisors	Total
≤ 4,999	0	0	0	0	0	0
5,000 - 9,999	1	2	0	0	0	3
10,000 - 14,999	0	2	0	1	0	3
15,000 - 19,999	0	21	0	3	0	24
20,000 - 24,999	0	0	0	0	0	0
25,000 - 29,000	0	1	0	0	0	1
30,000 - 74,999	1	2	0	3	0	6
≥ 75,000	0	0	0	0	0	0
Total	2	28	0	7	0	37
<i>in 2016</i>	<i>0</i>	<i>6</i>	<i>1</i>	<i>0</i>	<i>0</i>	<i>7</i>

Table 13 The number of enquiries concerning the imposition of safety measures received by mayors of Flemish cities and municipalities in 2017

The 13 mayors who received a request for the imposition of safety measures in 2017 received a total of 37 of these questions from municipal or Local police supervisors and regional supervisors. The majority, i.e. 76%, were appointed by the municipal supervisors.

These 37 enquiries to impose safety measures represent a further increase compared to the 7 questions in 2016, and the 12 questions in 2015. The number of enquires in 2017 is therefore similar to 2014, when there were 26 enquiries, 2013, when there were 38 enquiries, and 2012, when 33 enquiries were submitted to the mayors.

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

Table 13 gives an overview of the number of safety measures actually imposed by mayors and the type of safety measure that was imposed. The VHRM also asked, in analogy to the question regarding administrative measures, whether it was possible to enforce the measure by the imposed deadline.

Mayor of a city/municipality with a population of:	Safety measures imposed by the mayor							Total	it was not possible to have the measure carried out within the imposed time frame
	the suspension or execution of works, operations or activities immediately or within a specified period	the prohibition on the use or the sealing of buildings, installations, machinery, apparatus, means of transport, containers, land and anything therein or thereon	the full or partial closure of an establishment	the prohibition or evacuation of certain areas, grounds, buildings or roads	combination of previous measures	other measures than previous	Total		
≤ 4,999	0	0	0	0	0	0	0	0	0
5,000 - 9,999	3	0	0	0	0	3	6	0	0
10,000 - 14,999	7	3	0	2	3	6	21	0	0
15,000 - 19,999	3	5	1	7	2	5	23	1	1
20,000 - 24,999	0	0	0	0	0	0	0	0	0
25,000 - 29,000	3	3	3	3	3	1	16	0	0
30,000 - 74,999	3	0	2	1	1	1	8	0	0
≥ 75,000	0	0	0	0	0	0	0	0	0
Total	19	11	6	13	9	16	74	1	1
<i>in 2016</i>	4	2	2	2	3	6	22	0	0

Table 14 The number and type of safety measures imposed by mayors of Flemish cities and municipalities in 2017

Just as the number of requests to impose safety measures increased sharply in 2017 compared to 2016, the number of safety measures actually imposed also increased in 2017. In 2016, 8 mayors imposed a total of 22 safety measures. In 2017, 13 mayors imposed a total of 74 safety measures. The average number of safety measures imposed per mayor was 5.7 in 2017, compared to 2.75 in 2016. It can be observed that the number of safety measures that have not been implemented within the imposed time limit is practically zero. In 2016, all safety measures were implemented on time; in 2017, one case was not implemented on time.

Nearly 26% of safety measures imposed in 2017 related to the suspension or execution of works, operations or activities, immediately or within a specified period. 15% of the cases concerned the prohibition on the use or the sealing of buildings, installations, machinery, apparatus, means of transport, containers, land and anything therein or thereon. Prohibition order or the evacuation of certain areas, grounds, buildings or roads was imposed 13 times in 2017 as a safety measure, which is equivalent to 18%.

2.4.2 Municipal supervisors

To gain insight into the organisation and efforts regarding local environmental enforcement, the 308 Flemish cities and municipalities were asked to provide information, among other things, on the appointment of supervisors, how supervision is organised in the municipality, the number of environmental enforcement inspections carried out, and the result of these inspections. The results of the environmental enforcement inspections are discussed in chapter 3, where an evaluation per enforcement instrument provides more details. This chapter attempts to sketch a picture of the municipalities' response to the VHRM's questionnaire; the number of class 1, class 2 and class 3 nuisance-causing establishments; the organisation of supervision in cities and municipalities; the number of appointed local supervisors; the appointment of supervisors and time spent on supervisory duties; and the number of inspections carried out per municipality class, per supervisor and per FTE in 2017.

Response

Municipality/city with a population of:	Number of municipalities	Number of responding municipalities
≤ 4,999	12	7
5,000 - 9,999	65	55
10,000 - 14,999	85	73
15,000 - 19,999	51	45
20,000 - 24,999	32	30
25,000 - 29,000	15	15
30,000 - 74,999	39	34
≥ 75,000	9	8
Total	308	267

Table 15 The number of responding municipalities per class compared to the total number of municipalities per class in 2017

Table 16 shows that – in line with the response rate of mayors – 267 municipalities completed the VHRM's questionnaire. This represents a response rate of 87%. As mentioned earlier, this response rate is the highest since environmental enforcement reports have been drawn up. As a result, the whole picture of the local environmental enforcement landscape is more representative than in previous years.

Nuisance-causing plants per municipality

Cities and municipalities were asked how many class 1, 2 and 3 licensed establishments according to Annex I to title II of VLAREM are located on their territory and to give an estimate of the total number of unlicensed nuisance-causing plants in their city/municipality in 2017. The purpose of this question was to obtain more insight into the number of nuisance-causing plants per municipality, since this insight is indispensable for drawing up a sound inspection plan and for assessing and evaluating environmental monitoring efforts. In addition, the number of class 2 nuisance-causing plants is used as a criterion for determining the number of supervisors a municipality must have at its disposal. To avoid confusion, the term unlicensed nuisance-causing plant is defined as follows: establishments that can be classified as a class 1, class 2 or class 3 establishment on the basis of the VLAREM regulation but have not yet been granted a permit.

The following table shows the total number of class 1, 2 and 3 nuisance-causing plants and the estimated number of unlicensed nuisance-causing plants for 2017. It should be noted that on 23

February 2017, about 5,000 of the 20,000 class 1 establishments were reclassified as class 2 establishments.²⁸ This means that supervision of all these businesses was transferred from the regional supervisors to the municipal supervisors. The table also shows an average number of nuisance-causing plants per classification class and the number of municipalities that do not know the number of nuisance-causing or unlicensed plants on their territory.

Number of inhabitants	Number in inhabitants per inhabitants class	Class 1 establishments in 2017			Class 2 establishments in 2017			Class 3 establishments in 2017			Unlicensed establishments in 2017		
		Total number according to survey	Average number per municipality	Number of municipalities that do not know the number of class 1 establishments	Total number according to survey	Average number per municipality	Number of municipalities that do not know the number of class 2 establishments	Total number according to survey	Average number per municipality	Number of municipalities that do not know the number of class 3 establishments	Total number according to survey	Average number per municipality	Number of municipalities that does not know the number of unlicensed establishments or indicated that there were no unlicensed establishments
≤ 4,999	7	38	6	1	159	27	1	405	81	2	72	14	2
5,000 - 9,999	55	987	23	12	3,814	89	12	12,129	319	17	446	17	29
10,000 - 14,999	73	2,703	46	14	8,364	147	16	22,201	427	21	1,156	27	30
15,000 - 19,999	45	1,864	45	4	5,252	135	6	15,722	476	12	806	32	20
20,000 - 24,999	30	1,835	66	2	6,178	221	2	17,735	633	2	341	21	14
25,000 - 29,000	15	885	59	0	2,633	176	0	10,045	718	1	400	44	6
30,000 - 74,999	34	3,479	124	6	8,959	320	6	27,762	1,068	8	500	33	19
≥ 75,000	8	886	177	3	4,286	857	3	16,708	3,342	3	38	13	5
Total	267	12,677	56	42	39,645	179	46	122,707	610	66	3,759	26	125

Table 16 The number of nuisance-causing plants per municipalities class in 2017

It is extremely important for cities and municipalities to gain insight into the number of establishments on their territory, not only for planning their own environmental enforcement efforts, but also in order to comply with legal and statutory obligations. As already mentioned, municipalities with more than three hundred class 2 establishments must have two supervisors at their disposal since 1 May 2011. This is discussed further in the context of the 'number of appointed local supervisors'.

Table 17 shows that in 2017, 225 out of a total of 267 responding municipalities had 12,677 class 1 establishments on their territory. However, 42 municipalities reported that they have no information about the number of class 1 establishments on their territory. This means that, on the basis of the response, a municipality in the Flemish Region has an average of 56 class 1 establishments. However, if we look at the different classes of inhabitants separately, this average is much more differentiated.

²⁸ Request for an explanation by Wilfried Vandaele to Flemish minister Joke Schauvliege about "environmental enforcement", Fl.Parl., discussed in the Commission for Environment, Nature, Spatial Planning, Energy and Animal Welfare, 24 January 2017.

The municipalities in the smallest population group have on average only 6 class 1 establishments, while in the cities in the largest population group this increases to 177 class 1 establishments.

With regard to class 2 establishments, 221 of the 267 responding municipalities together had 39,645 class 2 establishments on their territory, which represents an average of 179 class 2 establishments per municipality. In absolute numbers, this figure is significantly higher than in 2016 when 153 of the 182 responding municipalities reported having 28,656 class 2 establishments on their territory. Extrapolating the figures from 2016 to the number of responding municipalities would result in 37,539 class 2 establishments for 2017. The difference between 2017 and 2016 may therefore be due to the downgrading of class 1 establishments. However, it can be noted that the average number of class 2 establishments in 2017 is 179 which is lower than in 2016 when it was 187. The table also reveals that the picture is quite different if you consider the different inhabitant classes. The smallest municipalities had an average of 27 class establishments and the largest had an average of no less than 857. As with class 1 establishments, the number of class 2 establishments increases overall as the number of inhabitants increases. Also with regard to class 2 establishments, 46 municipalities indicated that they did not know this number.

With regard to class 3 establishments, the number of municipalities that do not know the number of class 3 establishments on their territory is higher than for class 1 and class 2 and amounts to 16% of the number of responding municipalities. In 2017, the other 201 responding municipalities together had 122,707 class 3 establishments on their territory, i.e. 610 per municipality.

A striking fact is that no less than 142 of the responding municipalities indicated that they were aware of a total of 3,759 unlicensed establishments on their territory. As stated earlier, these are establishments that can be classified as a class 1, class 2 or class 3 establishment on the basis of the VLAREM regulation but have not yet been granted a permit. This amounts to an average of 26 nuisance-causing and unlicensed establishments per municipality which are not really operated legitimately since no permit has been issued (yet) or no report has been made (class 3 establishments). The remaining 125 responding municipalities indicated that they did not know the number of unlicensed establishments or that they did not have unlicensed establishments on their territory. For 2016, 96 out of a total of 182 responding municipalities had reported 6,915 unlicensed establishments on their territory, which corresponds to an average of 72 nuisance-causing and unlicensed plants per municipality that were not operated legitimately. Although this number in 2017 was much lower in 2016, it still seems necessary to recommend once again that these municipalities also focus their enforcement efforts on these unlicensed, nuisance-causing plants. 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 Government of Flanders Order of 12 December 2008 implementing title XVI of the decree of 5 April 1995 governing the general provisions on environmental policy, stipulates that municipalities must have at least one local supervisor at their disposal at the latest one year after the aforementioned decree comes into effect. Within two years of the coming into force of this decree, which was on 1 May 2011, a municipality with more than three hundred class 2 establishments according to the classification list, or with more than thirty thousand inhabitants if the number of establishments is insufficiently known, must have two local supervisors at its disposal. The collected data can be used to analyse to what extent the municipalities in the Flemish Region complied with these provisions of the Environmental Enforcement Decree on the appointment of supervisors in 2017.

The following tables show to what extent municipalities had sufficient supervisors their disposal in 2017 – both on the basis of the number of nuisance-causing class 2 plants and on the basis of the number of inhabitants.

Appointment of supervisors based on the number of nuisance-causing plants	number of municipalities		
	without supervisors	with 1 supervisor	with ≥ 2 supervisors
> 300 nuisance-causing plants in class 2	1	8	24
< 300 nuisance-causing plants in class 2	29	68	91
do not know the number of nuisance-causing plants	7	16	23
Total	37	92	138

Table 17 Appointment of local supervisors based on the number of nuisance-causing plants in 2017

If the number of nuisance-causing plants is taken as a criterion for determining the number of supervisors that a municipality must have at its disposal – whether or not appointed within its own municipality, an inter-municipal association, or a police zone – it can be concluded from table 18 that a minimum of 45 and a maximum²⁹ of 61 of the responding municipalities could not call on sufficient supervisors. This corresponds to minimum 17% and maximum 23% of the total number of responding municipalities. This is a slight decline compared to last year when the minimum was 14% and the maximum was 20%. Note that these percentages were significantly lower in the years before 2016. In 2015, these ratios were minimum 7% and maximum 8%, and in 2014 minimum 6.5% and maximum 10.5%. This means that municipalities are failing to meet the statutory minimum number of supervisors more and more.

If the number of nuisance-causing class 2 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. The table below shows this scenario. As soon as a municipality has more than 30,000 inhabitants, it must have at least two supervisors at its disposal.

²⁹ Taking into account the 16 municipalities that had one supervisor at their disposal and have no idea about the number of nuisance-causing plants on their territory. There could potentially be more than 300 of such establishments, so they should have 2 supervisors at their disposal instead of one.

Appointment of supervisors based on the number of inhabitants	number of municipalities		
	without supervisors	with 1 supervisor	with ≥ 2 supervisors
≤ 4,999	4	1	2
5,000 - 9,999	10	22	23
10,000 - 14,999	9	31	33
15,000 - 19,999	6	19	20
20,000 - 24,999	3	9	18
25,000 - 29,000	1	4	10
30,000 - 74,999	3	6	25
≥ 75,000	1	0	7
Total	37	92	138

Table 18 Appointment of local supervisors based on the number of inhabitants in 2017

As in the previous table, table 19 shows that 37 responding municipalities did not have a supervisor at their disposal in 2017. This corresponds to nearly 14% of the total number of responding municipalities. This is a negative trend compared to 2016 when 10% of the responding municipalities did not yet have a supervisor at their disposal and compared to 2015, when only 6% of the responding municipalities did not have a supervisor at their disposal.

If the number of inhabitants is used as a criterion for determining the statutory required number of supervisors, all municipalities with more than 30,000 inhabitants should be able to call on at least 2 supervisors. The table shows that, in the second largest class (municipalities with a population of 30,000 to 74,999), 6 municipalities had only one supervisor at their disposal in 2017. This means that more than 2% of responding municipalities with more than 30,000 inhabitants did not yet comply with the provision that at least two supervisors must be available in 2017. In 2016, this percentage was also 2%.

In addition, it was found that 37 other municipalities did not have a supervisor at their disposal. This means that a total of 43 municipalities did not yet comply with the provisions of the Environmental Enforcement Decree in 2017, which represents 16% of the total number of responding municipalities. This is a negative trend compared to the 12% in 2016. So based on the number of inhabitants, it can be concluded that more and more municipalities are failing to meet the statutory minimum number of supervisors.

Appointment and time spent by municipal supervisors

The municipalities and cities in the Flemish Region were asked how many supervisors were appointed in their own municipalities in 2017, how many FTEs they had spent on environmental enforcement tasks, and how many FTEs were spent in their own municipalities on administrative support for environmental enforcement tasks by non-supervisors.

Table 19 gives an overview of the appointment and time spent by municipal supervisors per municipality class in 2017.

Number of inhabitants	Response	Municipality with appointed municipal supervisor	Municipalities without appointed supervisor	Total number of appointed municipal supervisors	Average number of supervisors per municipality	Time spent on supervisory activities (FTE)			Average time spent by supervisors on supervisory tasks (FTE)
						Total FTE	by supervisors on environmental enforcement tasks in the context of the Environmental Enforcement Decree	administrative support of environmental enforcement tasks by non-supervisors	
≤ 4,999	7	1	6	1	1.00	0	0	0	0.00
5,000 - 9,999	55	36	19	38	1.06	4.99	4.13	0.86	0.13
10,000 - 14,999	73	49	24	57	1.16	8.32	6.34	1.98	0.15
15,000 - 19,999	45	31	14	39	1.26	5.64	3.94	1.7	0.14
20,000 - 24,999	30	22	8	30	1.36	3.35	2.43	0.92	0.11
25,000 - 29,000	15	13	2	19	1.46	2.33	1.39	0.94	0.12
30,000 - 74,999	34	26	8	48	1.85	8.21	6.36	1.85	0.17
≥ 75,000	8	7	1	30	4.29	15.8	12.7	3.1	0.53
Total	267	185	82	262	1.42	48.64	37.29	11.35	0.19
<i>in 2016</i>	<i>182</i>	<i>132</i>	<i>18</i>	<i>191</i>	<i>1.45</i>	<i>38.77</i>	<i>28.69</i>	<i>10.08</i>	<i>0.2</i>

Table 19 Appointment and time spent by municipal supervisors per municipalities' class in 2017

In 2017, 262 municipal supervisors were appointed in 185 municipalities. This amounts to an average of 1.42 municipal supervisors per municipality with an appointed municipal supervisor.

However, the average of 1.42 municipal supervisors per municipality with an appointed supervisor changes significantly as soon as the different classes of municipalities are considered. The average number of supervisors per municipality in the smallest class is barely 1, while in the largest cities this average rises to 4.29. It can be deduced from this that the larger the population, the more supervisors were appointed within the municipalities.

In the 185 municipalities that had a total of 262 municipal supervisors at their disposal in 2017, a total of 48.64 FTEs was spent on environmental enforcement tasks, of which approximately 77% by supervisors on environmental enforcement tasks in this context of the Environmental Enforcement Decree and approximately 23% on administrative support for environmental enforcement tasks by non-supervisors.

The average time spent³⁰ per municipal supervisor on environmental enforcement tasks (this includes the FTEs spent on administrative support) was 0.19 FTEs in 2017. This means that the average municipal supervisor is deployed for 1/5 (19%) to carry out environmental enforcement duties in the context of the Environmental Enforcement Decree. As there is an average of 1.42 supervisors per municipality, the average time spent³¹ was 0.27 FTEs on enforcement duties per municipality that had a supervisor at its disposal.

³⁰ The average time spent per supervisor is the total number of reported FTEs spent on environmental enforcement tasks, divided by the total number of reported appointed supervisors.

³¹ This time spend is calculated by multiplying the average time spent per supervisor on supervisory duties by the average number of municipal supervisors per municipality that actually also had a supervisor at its disposal. In this way, an overview can be given of the average FTEs deployed for environmental enforcement tasks in a municipality that actually appointed one or more supervisors.

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 2017, the average time spend per municipal supervisor on environmental enforcement tasks was 0.19 FTEs. In the largest municipalities (municipalities class with more than 75,000 inhabitants), the supervisor spent an average of 53% of his time on environmental enforcement duties, and the average time spent by these municipalities on environmental enforcement duties totalled 2.1 FTEs. However, both the average amount of time spent per municipal supervisor and the amount of time spent per municipality drops sharply as the number of inhabitants decreases.

Environmental enforcement inspections

To gain insight into the activities of municipal supervisors in 2017, table 20 shows the total number of environmental enforcement inspections carried out per municipalities' class. In addition, the table also shows the time spent by supervisors on supervisory tasks in FTEs, the average number of environmental enforcement inspections per supervisor and the average number of environmental enforcement inspections per FTE. The results of these inspections are then discussed during the evaluation of the individual enforcement instruments in chapter 3. Table 19 takes into account the total time spent on environmental enforcement tasks by municipalities, i.e. the FTEs deployed for enforcement tasks by the municipal supervisors as well as the FTEs spent on administrative support for environmental enforcement tasks. The purpose of this is to provide a more complete picture of how an inspection is performed.

Number of inhabitants	Response	Number of appointed supervisors per municipality	Total time spent on environmental enforcement tasks in FTEs	Number of environmental enforcement inspections carried out	Average number of environmental enforcement inspections per supervisor	Average time spent by supervisors on supervisory tasks (FTE)	Average number of environmental enforcement inspections per FTE
≤ 4,999	7	1	0	2	2	0.00	0
5,000 - 9,999	55	38	4.99	350	9	0.13	70
10,000 - 14,999	73	57	8.32	666	12	0.15	80
15,000 - 19,999	45	39	5.64	572	15	0.14	101
20,000 - 24,999	30	30	3.35	323	11	0.11	96
25,000 - 29,000	15	19	2.33	236	12	0.12	101
30,000 - 74,999	34	48	8.21	738	15	0.17	90
≥ 75,000	8	30	15.8	1,685	56	0.53	107
Total	267	262	48.64	4,572	17	0.19	94
<i>in 2016</i>	<i>182</i>	<i>191</i>	<i>38.77</i>	<i>3561</i>	<i>19</i>	<i>0.2</i>	<i>92</i>

Table 20 Efforts related to environmental enforcement tasks of municipal supervisors per municipalities' class in 2017

This table shows that the 262 municipal supervisors – who spent a total of 48.64 FTEs on environmental enforcement tasks – together carried out 4,572 environmental enforcement inspections in 2017. This corresponds to an average number of environmental enforcement inspections of 17 per supervisor and an average number of environmental enforcement inspections of almost 94 per FTE. This means that if every supervisor could focus full-time on environmental enforcement tasks, a total of 22,906 environmental enforcement inspections would be carried out by the 262 appointed municipal supervisors. Because supervisors can only spend 1/5 (19%) of their time

on enforcement activities on average, a total of only 4,572 inspections were carried out. This data would make it possible to argue for an amendment of the Environmental Enforcement Decree and the Environmental Enforcement Order in the sense that it is not the number of supervisors per municipality that is specified but the number of FTEs that should be deployed for enforcement tasks.

A more mixed picture can be seen if we look at the number of environmental enforcement inspections carried out, the average number of environmental enforcement inspections per supervisor and the average number of environmental enforcement inspections per FTE per category of municipalities. For all categories, the average number of environmental enforcement inspections per FTE is always higher than the average number of inspections per supervisor (except for the smallest category in which 1 municipality reported 2 inspections carried out as a result of a complaint made directly to the municipality, 1 identified offence and 1 recommendation, but where no FTE was deployed for environmental enforcement tasks). This is due to the fact that the appointed supervisors only spent a limited proportion of their time on environmental enforcement duties in the context of the Environmental Enforcement Decree.

For 2017, municipalities were asked to indicate how many self-initiated environmental enforcement inspections were carried out in response to complaints and reports, for example on the basis of an environmental enforcement programme, at the request of another public authority and at the request of the police zone. This is presented in the following table.

Number of inhabitants	Total number of environmental enforcement inspections carried out	Number of self-initiated environmental enforcement inspections	Number of environmental enforcement inspections in response to 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 zone
≤ 4,999	2	0	2	0	0
5,000 - 9,999	350	53	237	24	36
10,000 - 14,999	666	128	497	12	29
15,000 - 19,999	572	142	359	22	49
20,000 - 24,999	323	84	201	8	30
25,000 - 29,000	236	19	182	10	25
30,000 - 74,999	738	169	448	63	58
≥ 75,000	1,685	372	1,189	90	34
Total	4,572	967	3,115	229	261
<i>in 2016</i>	<i>3561</i>	<i>964</i>	<i>2366</i>	<i>111</i>	<i>120</i>

Table 21 The number of environmental enforcement inspections and reason for inspections carried out by municipal supervisors under the Environmental Enforcement Decree

In 2017, a total of 4,572 environmental enforcement inspections were carried out by provincial supervisors. The majority of these inspections, i.e. were carried out following complaints and reports, and approximately 21% of these inspections were self-initiated, proactive inspections, possibly in the context of planned actions or an environmental enforcement programme. In addition, 5% of inspections were carried out at the request of another public authority and 6% at the request of the police zone. The ratio of the number of inspections carried out as a result of complaints and reports

to inspections carried out on the police's own initiative was 66% in 2016 compared to 25%. It can therefore be concluded that the municipal supervisors work reactively to a large extent.

2.4.3 Intermunicipal associations

Article 16.3.1, §1, 4° of the Environmental Enforcement Decree provides for members of an inter-municipal association to be appointed as supervisors. Such a supervisor can only exercise supervision in the municipalities belonging to the inter-municipal association. According to article 16, §2 of the Environmental Enforcement Order, every inter-municipal association that appoints supervisors must appoint at least two supervisors for each tranche of five municipalities that has been started and that uses the services of the inter-municipal association's supervisors for the entire package of supervisory duties.

Since the Environmental Enforcement Decree entered into force in 2009, the role played by inter-municipal associations in the environmental enforcement landscape has increased steadily. Organising the supervision of environmental legislation within the framework of an inter-municipal association presents a number of advantages. For example, it may be interesting for smaller municipalities to organise themselves in this way. The appointment of an inter-municipal supervisor could lead to an increase in scale in terms of expertise and the spatial deployability of the supervisor. Given that, at present, the position of supervisor does not have to be a full-time equivalent job and that the position in smaller municipalities is often combined with other tasks, the appointment of a full-time equivalent (which is not always the case in practice) can only increase the knowledge and expertise of this supervisor in an inter-municipal association.

In addition, it may be a good idea to appoint several supervisors in a single inter-municipal association so that supervisors no longer have to carry out inspections in their own municipality.

The Flemish High Council for Spatial Planning and Environment therefore believes it is important to map out the activities of these inter-municipal associations and has therefore digitally surveyed those inter-municipal associations that are known to have organised their environmental enforcement or are in the process of doing so.

The VHRM received a completed questionnaire for this environmental enforcement report from seven inter-municipal associations. Three out of these seven five inter-municipal associations had appointed at least one supervisor in their association. Of the other 4 inter-municipal associations, 3 were in the process of starting up their activities and following training courses in 2017 with the intention of officially starting their activities in 2018. The environmental enforcement activities of the three inter-municipal associations with an appointed supervisor will be discussed in this section.

The first inter-municipal association provides environmental enforcement support for 30 municipalities. In 2017, 5 supervisors were appointed within this inter-municipal association and 1 FTEs were deployed for environmental enforcement by these supervisors. In addition, 0.1 FTE of administrative support for environmental enforcement was provided by non-supervisory bodies. A total of 153 inspections were carried out. During these inspections, 27 recommendations were made and 49 infringements were identified. 11 warnings were issued for these infringements; 15 priority official reports and 1 non-priority official report were drawn up. 2 administrative measures in the form of an administrative coercive measure were imposed, as well as 1 combined safety measure by means of a letter from the mayor.

A second inter-municipal association provides support for 17 municipalities. Three supervisors were appointed in 2017, who together spent 1.40 FTEs on environmental enforcement tasks. In addition, 0.1 FTE of administrative support by non-supervisory authorities was provided. A total of 94 inspections were carried out. During these inspections, 0 recommendations were made and 78 infringements were identified. 39 warnings were issued for these infringements, 13 priority official reports and 10 non-priority official reports were drawn up. 2 administrative measures were imposed: an injunction and a regularisation order. No safety measures were imposed.

A third inter-municipal association provides support for 30 municipalities. In 2017, 6 inter-municipal supervisors were appointed and as such the minimum requirement for the number of supervisors was met; they spent 0.1 FTE on environmental enforcement tasks. 0.1 FTE was provided for administrative support. A total of 19 environmental enforcement inspections were carried out in 2017, all at the request of another public authority. During these inspections, 7 recommendations were made and 15 infringements were identified. 4 warnings were issued for these infringements, 1 priority official reports and 5 non-priority official reports were drawn up. No administrative or safety measures were imposed.

3 EVALUATION OF THE USE OF THE INDIVIDUAL ENVIRONMENTAL ENFORCEMENT INSTRUMENTS AND SAFETY MEASURES

Whereas the previous chapter discusses the individual enforcement bodies and their efforts under the Environmental Enforcement Decree, this chapter focuses on the range of environmental enforcement instruments.

The aim is to gain insight into the use of all the resources given to supervisors to achieve their objectives.

This report provides an overview of the total number of inspections in relation to the number of inspections where a violation was found. This makes it possible to draw conclusions about the degree of compliance and the targeted enforcement by the bodies. In addition, the enforcement instruments in this report are weighed against the number of enforcement inspections carried out where a violation was found. 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 pursued 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 supervisors. The use of these figures implies that all previously formulated comments and remarks also apply here.

In the previous chapter, the supervisors of the Local police and the municipal supervisors were divided into different classes based on the number of inhabitants. In this chapter, the supervisors of the Local police on the one hand and the municipal supervisors on the other hand are included as a single body, alongside the various regional bodies.

As in the previous environmental enforcement report, this chapter will be concluded with a number of practical examples. These examples provide an excellent overview of how enforcement instruments are used in the field.

3.1 INSPECTIONS WHERE AN INFRINGEMENT WAS FOUND

In order to carry out a correct evaluation of the environmental enforcement instruments, the correct parameters must be compared with each other. In table 21, the total number of inspections carried out in 2017 is divided into the number of 'inspections where no violation was found' and the number of 'inspections where a violation was found'. The definition of an inspection is the following: "*An environmental enforcement inspection is the process of examining whether a legal person and/or a natural person who is bound by legal obligations under environmental law, actually complies with those legal obligations*". In principle, to avoid double counting, one inspection is linked to one violation or one non-violation. One inspection for one infringement also includes all the inspections relating to those identified infringements.

Since an instrument can only be used to establish an environmental offence or an environmental infringement, the number of times it has been applied will be weighed against the number of 'inspections where an infringement was found'. The exception to this is the 'recommendation' instrument. In principle, the recommendation can only be applied if an environmental offence or environmental infringement threatens to occur, but no violation has yet been found.

The following table gives an overview of the total number of environmental enforcement inspections carried out per supervisory authority, the number of inspections where no infringement was found and the number of inspections where an infringement was found in 2017.

Supervisory authority	Total number of inspections	Number of inspections where no infringement was found	% share in 2017	Number of inspections where an infringement was found	% share in 2017
Department of Environment and Spatial Development - Territorial Development, Environmental Planning and Projects Divisions & Flemish Planning Agency for the Environment (formerly ALBON)	206	191	93%	15	7%
Department of Environment and Spatial Development - Enforcement - Environmental Inspectorate (formerly AMI)	10,931	10,441	96%	490	4%
Department of Environment and Spatial Development - Territorial Development, Environmental Planning and Projects Divisions (formerly AMV)	606	453	75%	153	25%
Agency for Nature and Forests (ANB)	7,601	6,182	81%	1419	19%
Agency for Waterways and Sea Canal (AWZ)	12	5	42%	7	58%
Agency for Roads and Traffic (AWV)	302	118	39%	184	61%
Flemish Agency for Care and Health (VAZG)	8,798	8,095	92%	703	8%
NV De Scheepvaart	38	0	0%	38	100%
Public Waste Agency of Flanders (OVAM)	2,663	348	13%	2315	87%
Flemish Land Agency (VLM)	5,932	5,378	91%	554	9%
Flemish Environment Agency (VMM)	/	/	/	/	/
Department of Mobility and Public Works (MOW)	0	0	0%	0	0%
Provincial supervisors	80	2	3%	78	98%
Municipal supervisors	4,572	2,763	60%	1,809	40%
Local Police supervisors	4,774	3,818	80%	956	20%
Total	46,515	37,794	81%	8,721	19%

Table 22 Comparison of the number of 'inspections where no infringement was found' and the number of 'inspections where an infringement was found' in 2017.

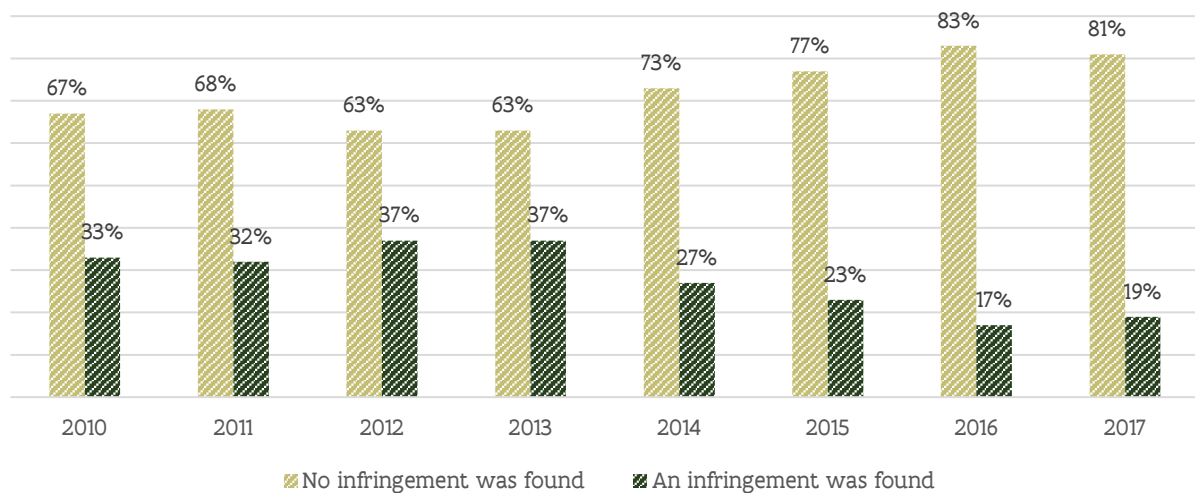
The following remark should be taken into account to provide context and interpret the above data:

- ▶ OVAM stated that a large number of firms were visited several times to check whether a warning or administrative measure had been complied with. In some cases, these follow-up inspections may lead to the infringement being detected again. A new warning is not drawn up in such a case because the original warning is still pending. In addition, it is remarked that if the IMJV inspections are excluded, a more realistic figure of 33% of inspections where an infringement could be found can be calculated (174 of the 522 companies checked are in breach).
- ▶ The Department of Environment and Spatial Development - Territorial Development, Environmental Planning and Projects Division (formerly AMV) indicates that the figures given includes all inspections that were started in 2017 but not necessarily completed in 2017. It does not include inspections carried out in 2016 or earlier and completed in the course of 2017. All the performed inspections concerned accreditations.
- ▶ The VMM figures for 2017 are not included in the tables and graphs given that the data received would not give a correct picture of VMM's enforcement activities. In 2017, 98 inspections were carried out by the VMM's Water Reporting Division. However, no figures were communicated on the number of infringements nor on the subjects of the infringements found. The VMM's

Operational Water Management Division, on the other hand, did provide figures on the number and type of infringements, but not on the total number of inspections carried out in 2017.

A first observation that can be made on the basis of table 21 is that, in 2017, a total of 46,515 environmental enforcement inspections were carried out by regional supervisors, provincial supervisors, municipal supervisors and Local police supervisors. This is an increase compared to 2016 when 40,337 inspections were carried out. However, this can possibly be explained by the higher response rate of the municipalities in 2017.

As can also be concluded from Chapter 2.1.2, an increase in the number of environmental enforcement inspections carried out is noticeable among almost all bodies. Only at the Department of Environment and Spatial Development - Territorial Development, Environmental Planning and Projects Division (formerly AMV) did the number of performed environmental enforcement inspections decline significantly: from 1,316 in 2016 to 606 in 2017.

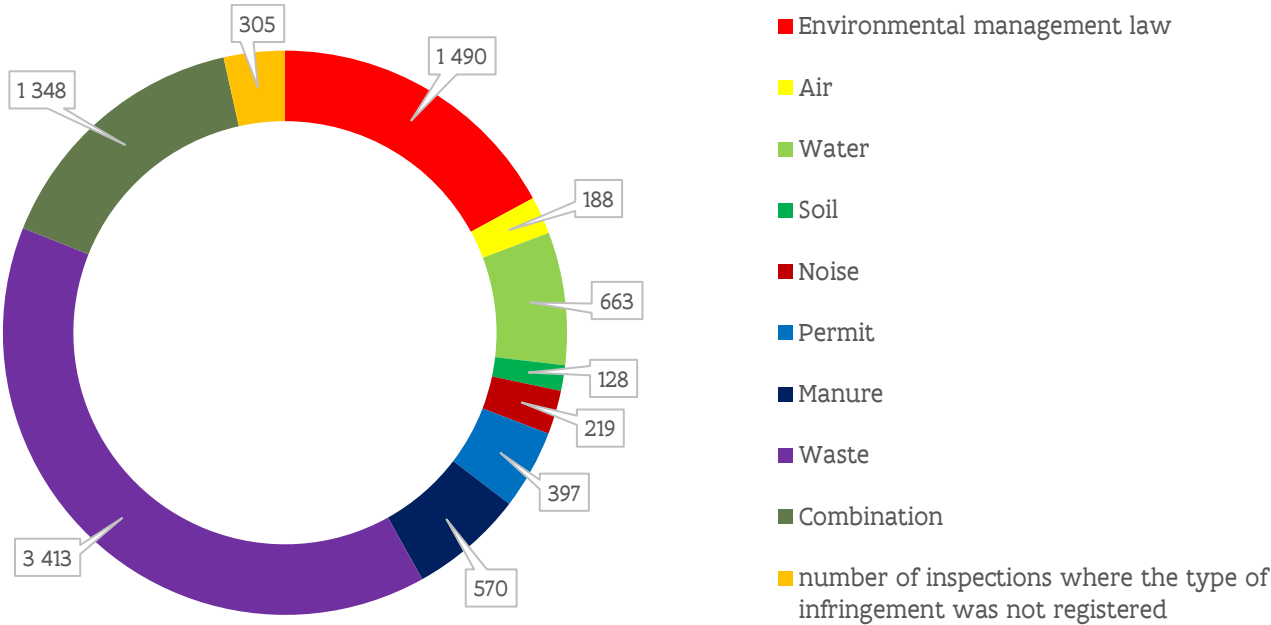


Graph 8 Comparison of the number of inspections where no infringement was found and the number of inspections where an infringement was found 2010 2017

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 46,515 environmental enforcement inspections carried out, 37,794 inspections did not reveal any infringement, which amounts to 81%, while 8,721 inspections, i.e. 19%, did reveal an infringement. Despite the increase in the number of environmental enforcement inspections, this ratio does not differ significantly from that in 2016, when no infringement was found in 83% of the total number of environmental enforcement inspections carried out, and one was found in 17%. In 2015, the figures were similar, when no infringement was found in 77% of the inspections, and one was found in 23%. In 2014, the ratio was 73% compared to 27%. However, in 2013 and 2012 the ratio was 63% and 37%, in 2011 68% compared to 32% and in 2010 67% compared to 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 supervisors, 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. Other players, on the other hand, have fewer inspections where an infringement has been detected. Whether or not the enforcement was the result of complaints and reports may play an important role in this respect. It is striking however, that just as in 2016, an infringement was only found in 1/5 of the inspections carried out by the Local police supervisors. In 2015, 33% of their inspections revealed an infringement, and in 2014, this was as high as 67% of the inspections.

For 2017, the supervisory authorities were asked to indicate the subject of the identified breaches, namely environmental management, air, water, soil, noise, permits, manure waste, or a combination of these subjects. The graph below gives an overview of the number of inspections where an infringement was detected, broken down by category.



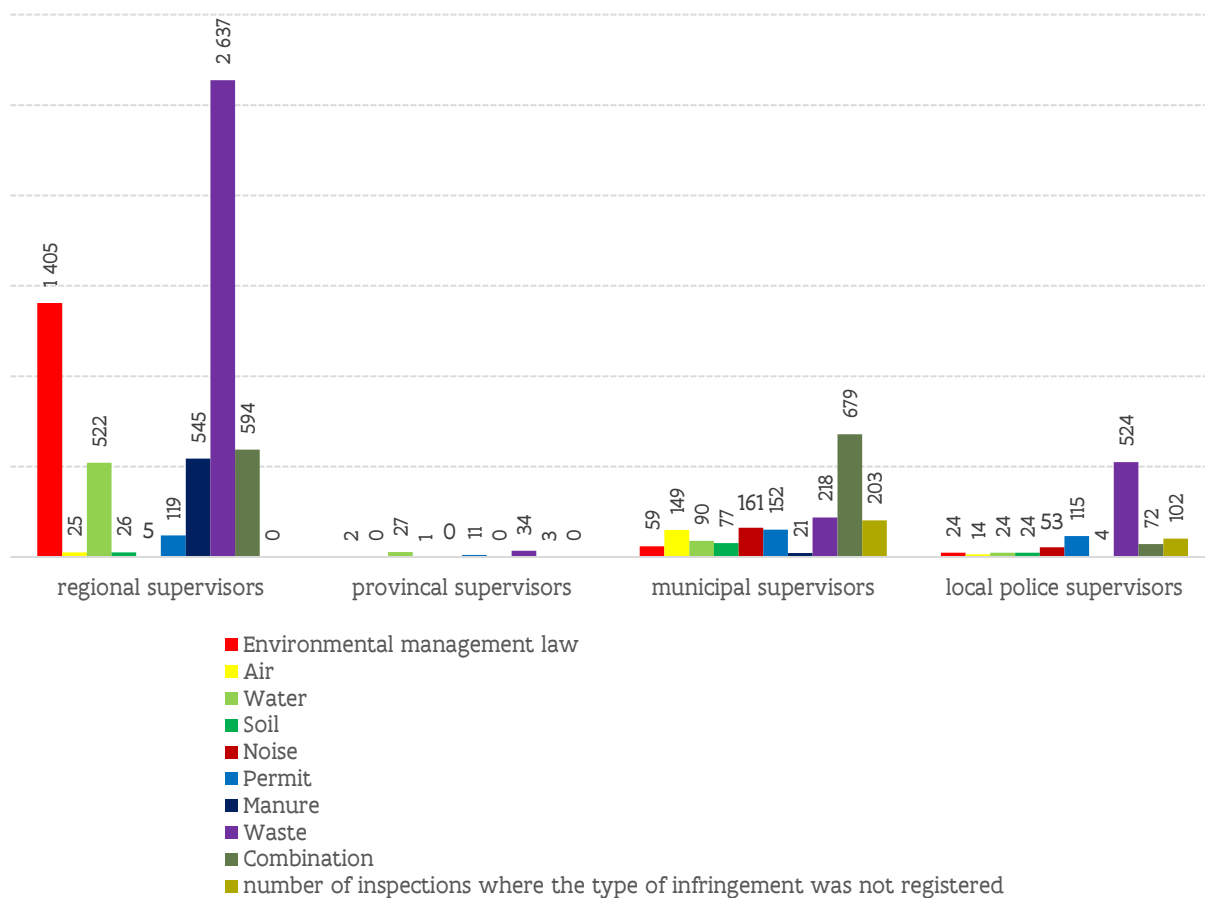
Graph 9 The number of inspections where an infringement was found, broken down by category

The following remark should be taken into account to provide context and interpret graph 10:

- ▶ The Department of Environment and Spatial Development - Territorial Development, Environmental Planning and Projects Division (formerly AMV) reports that it is not easy to categorise infringements relating to accreditations by the listed categories. All the performed inspections concerned accreditations and were indicated in the "combination" category.

The graph shows the different categories in which the 8,721 identified infringements fall. The largest number of identified infringements related to waste, i.e. 39% of the number of identified infringements. The category with the lowest number of identified infringements is for soil, with only 1% of identified infringements.

The following graph shows the various categories of infringements found in 2017, broken down by supervisor.



Graph 10 Categories of infringements identified in 2017

The majority of infringements detected by regional supervisors related to waste, namely 2,637 offences out of a total of 5,878 identified by these supervisors. This equates to 45%. The second largest category is environmental management. 24% of the total number of infringements detected by regional supervisors related to environmental management. The infringements identified by provincial supervisors related to waste and water. The municipal supervisors mainly identified combined infringements and the Local police supervisors mainly identified waste-related offences.

3.2 INSPECTIONS WITHOUT FURTHER ACTION

The survey of supervisory authorities asked about the number of performed inspections where an infringement of environmental legislation – an environmental offence or environmental crime – was detected in 2017 while no action was taken. The following table shows the number of 'inspections without further action' in proportion to the number of 'inspections where an infringement was identified' by supervisors in 2017. In addition, the percentage share of these 'inspections without further action' is also shown for 2016 and 2015.

Supervisory authority	number of inspections where an infringement was identified	Number of inspections without further action	% share in 2017	% share in 2016	% share in 2015
Department of Environment and Spatial Development - Territorial Development, Environmental Planning and Projects Divisions & Flemish Planning Agency for the Environment (formerly ALBON)	15	0	0%	0%	0%
Department of Environment and Spatial Development - Enforcement - Environmental Inspectorate (formerly AMI)	490	0	0%	0%	0%
Department of Environment and Spatial Development - Territorial Development, Environmental Planning and Projects Divisions (formerly AMV)	153	0	0%	1%	15%
Agency for Nature and Forests (ANB)	1419	0	0%	0%	0%
Agency for Waterways and Sea Canal (AWZ)	7	2	29%	33%	0%
Agency for Roads and Traffic (AWV)	184	0	0%	0%	0%
Flemish Agency for Care and Health (VAZG)	703	230	33%	29%	0%
NV De Scheepvaart	38	0	0%	0%	0%
Public Waste Agency of Flanders (OVAM)	2315	24	1%	0%	0%
Flemish Land Agency (VLM)	554	0	0%	0%	0%
Flemish Environment Agency (VMM)	/	/	/	0%	0%
Department of Mobility and Public Works (MOW)	0	0	0%	0%	0%
Provincial supervisors	78	0	0%	21%	71%
Municipal supervisors	1,809	52	3%	5%	13%
Local Police supervisors	956	3	0%	4%	0%
Total	8,721	311	4%	5%	2%

Table 23 The number of 'Inspections without further action' weighed against the number of 'Inspections where an infringement was identified' in 2017, 2016 and 2015.

To provide more context for the OVAM data in table 24, the following comment must be considered:

- OVAM reports that a company may be inspected several times in some cases and that new infringements are sometimes identified for which no warning is issued because the previous warnings are still ongoing.

The table above shows that in 4% of the total number of 8,721 performed environmental enforcement inspections in which an infringement was found, no further action was taken with regard to the identified infringement. This is a slight improvement compared to the 5% in 2016 but still slightly

lower than the 2% in 2015. Note that the level in 2014 and 2013 was still 9% and 15% respectively. The trend over recent 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 have become quite familiar with the use of these instruments.

Based on the above data we can conclude that it is mainly VAZG which did not take any further action in recent years with regard to certain identified infringements. 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 WHOSE RESULT IS UNKNOWN

Based on the survey of supervisory authorities, an assessment was made of the number of inspections whose result was unknown in 2017. This was achieved by calculating the difference between, on the one hand, the total number of performed inspections, and on the other hand, the number of inspections where no infringement was found, the number of inspections where no action was taken in respect of the identified infringement, the number of recommendations, the number of warnings, the number of incident reports and the number of official reports. This is therefore always a minimum number, as several instruments can be used during a single inspection. The table below shows the number of 'inspections whose result is unknown' in proportion to the total number of environmental enforcement inspections carried out by the supervisor. In addition, the percentage share of these 'inspections whose result is unknown' is also shown for 2016 and 2015.

Supervisory authority	Total number of inspections	Number of inspections whose result is unknown	% share in 2017	% share in 2016	% share in 2015
Department of Environment and Spatial Development - Territorial Development, Environmental Planning and Projects Divisions & Flemish Planning Agency for the Environment (formerly ALBON)	206	0	0%	0%	0%
Department of Environment and Spatial Development - Enforcement - Environmental Inspectorate (formerly AMI)	10,931	0	0%	0%	0%
Department of Environment and Spatial Development - Territorial Development, Environmental Planning and Projects Divisions (formerly AMV)	606	99	16%	20%	0%
Agency for Nature and Forests (ANB)	7,601	0	0%	0%	0%
Agency for Waterways and Sea Canal (AWZ)	12	0	0%	0%	0%
Agency for Roads and Traffic (AWV)	302	0	0%	0%	0%
Flemish Agency for Care and Health (VAZG)	8,798	0	0%	0%	0%
NV De Scheepvaart	38	0	0%	0%	0%
Public Waste Agency of Flanders (OVAM)	2,663	0	0%	7%	17%
Flemish Land Agency (VLM)	5,932	53	1%	1%	1%
Flemish Environment Agency (VMM)	/	/	/	63%	0%
Department of Mobility and Public Works (MOW)	0	0	0%	0%	0%
Provincial supervisors	80	8	10%	0%	14%
Municipal supervisors	4,572	94	2%	0%	0%
Local Police supervisors	4,774	1	0%	0%	0%
Total	46,515	255	1%	1%	1%

Table 24 The number of inspections whose result is unknown in 2017 and their percentage of the total number of environmental enforcement inspections carried out in 2015, 2016 en 2017

To provide more context for the VLM data in table 25, the following comment must be considered:

- VLM may also impose administrative fines under the Manure Decree. These cases of administrative fines are also negative, however, they are not included in this overview under

actions but in the total number of negative inspections. In 67 negative cases, the only follow-up action was the imposition of an administrative fine.

Table 23 shows that for a number of supervisors the results of some of their inspections are unknown, namely at the Department of Environment and Spatial Development - Territorial Development, Environmental Planning and Projects Division (formerly AMV), NV De Scheepvaart, VLM and for the provincial and municipal supervisors.

For 255 out of a total of 46,515 performed environmental enforcement inspections, the result in 2017 was unknown. This corresponds to less than 1% of the total number of inspections. This is a confirmation of the percentage for 2016 and 2015. In 2014, the result was unknown for as many as 5% of the total of 36,921 performed environmental enforcement inspections. In 2013, this ratio was as high as 11.5% and this was the case for half of the responding supervisory authorities.

This improvement in recent years could indicate better monitoring. Effective monitoring is crucial for drawing up an environmental enforcement report efficiently. Complete and accurate data should be used as much as possible. Every inspection whose outcome is unknown results in an incomplete evaluation of the bodies involved and the entire set of instruments.

3.4 EVALUATION OF THE 'RECOMMENDATION' INSTRUMENT

Article 16.3.22 of DABM defines the 'recommendation' instrument as follows: "If supervisors find that an environmental offence or an environmental crime is likely to occur, they may give any recommendation they consider useful to prevent it.

Since 'recommendation' is one of the preventive instruments and can therefore only be used in the event that no crime or offence has been detected, the number of recommendations has been weighed against the number of inspections where no infringement was found. However, when interpreting the information below, take into account that an infringement may be identified during an inspection and that, in addition to, for example, a warning, an incident report or an official report, a recommendation may also be formulated during the same inspection for an infringement in the future. Recommendations may also be given orally and are therefore not registered. A percentage underestimation of the number of formulated recommendations in relation to the number of inspections where no infringement was found can therefore not be ruled out.

The following table gives an overview of the use of the 'recommendation' instrument by the various supervisory bodies in 2017. The percentage share of the use of this instrument in 2016 and in 2015 is also shown.

Supervisory authority	Number of inspections where no infringement was found	Number of recommendations by supervisor	% share in 2017	% share in 2016	% share in 2015
Department of Environment and Spatial Development - Territorial Development, Environmental Planning and Projects Divisions & Flemish Planning Agency for the Environment (formerly ALBON)	191	3	2%	13%	8%
Department of Environment and Spatial Development - Enforcement - Environmental Inspectorate (formerly AMI)	10,441	107	1%	2%	1%
Department of Environment and Spatial Development - Territorial Development, Environmental Planning and Projects Divisions (formerly AMV)	453	11	2%	2%	1%
Agency for Nature and Forests (ANB)	6,182	0	0%	1%	0%
Agency for Waterways and Sea Canal (AWZ)	5	2	40%	0%	0%
Agency for Roads and Traffic (AWV)	118	0	0%	0%	0%
Flemish Agency for Care and Health (VAZG)	8,095	3,120	39%	51%	7%
NV De Scheepvaart	0	0	0%	0%	0%
Public Waste Agency of Flanders (OVAM)	348	0	0%	0%	0%
Flemish Land Agency (VLM)	5,378	14	0%	0%	0%
Flemish Environment Agency (VMM)	/	/	/	0%	0%
Department of Mobility and Public Works (MOW)	0	0	0%	0%	0%
Provincial supervisors	2	1	50%	0%	0%
Municipal supervisors	2,763	1,553	56%	62%	84%
Local Police supervisors	3,818	1,329	35%	52%	65%
Total	37,794	6,140	16%	19%	14%

Table 25 The number of 'recommendations' issued by supervisors in relation to the total number of 'inspections where no infringement was found'

The table shows that a total of 6,140 recommendations were drawn up for a total of 37,794 inspections for which no infringement was found. This corresponds to 16% of these inspections. In 2016, a recommendation was drawn up for 19% of the total number of inspections carried out in which no infringement was found; in 2015 this was 14% and in 2014 only 7%.

Note that the recommendation instrument is not used equally by every supervisory authority. A large portion of the percentage share is due to the number of recommendations (absolute number and percentage in relation to the number of inspections for which no infringement was found) issued by VAZG supervisors. In 2017, VAZG formulated 3,120 recommendations for 8,095 inspections where no infringement was found, which means that in 4 out of 10 inspections for which no infringement was found, the VAZG supervisors took preventive action by formulating recommendations to prevent an imminent environmental offence 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 2017 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. One possible explanation could be that oral recommendations are not always monitored.

3.5 EVALUATION OF THE 'WARNING' INSTRUMENT

DABM also provides a clear description of the 'warning' instrument. Article 16.3.27 of DABM specifies: "If supervisors, in the course of their supervisory duties, identify an environmental offence or an environmental crime, they may require that the suspected offender and any other involved persons take the necessary measures to end the environmental offence or crime, to remedy its consequences in whole or in part, or to prevent its recurrence." The supervisor may therefore choose whether or not to use the warning instrument.

The table below shows the figures for the use of the 'warning' instrument in relation to the total number of inspections where an infringement was detected in 2017, as obtained from the various supervisory authorities. For comparison purposes, this percentage ratio is also given for 2016 and 2015.

Supervisory authority	number of inspections where an infringement was identified	Number of warnings by supervisors	% share in 2017	% share in 2016	% share in 2015
Department of Environment and Spatial Development - Territorial Development, Environmental Planning and Projects Divisions & Flemish Planning Agency for the Environment (formerly ALBON)	15	15	100%	100%	100%
Department of Environment and Spatial Development - Enforcement - Environmental Inspectorate (formerly AMI)	490	409	83%	91%	300%
Department of Environment and Spatial Development - Territorial Development, Environmental Planning and Projects Divisions (formerly AMV)	153	40	26%	26%	83%
Agency for Nature and Forests (ANB)	1419	808	57%	57%	60%
Agency for Waterways and Sea Canal (AWZ)	7	2	29%	67%	100%
Agency for Roads and Traffic (AWV)	184	0	0%	0%	0%
Flemish Agency for Care and Health (VAZG)	703	473	67%	71%	100%
NV De Scheepvaart	38	0	0%	9%	100%
Public Waste Agency of Flanders (OVAM)	2315	2268	98%	78%	77%
Flemish Land Agency (VLM)	554	331	60%	58%	45%
Flemish Environment Agency (VMM)	/	/	/	35%	100%
Department of Mobility and Public Works (MOW)	0	0	0%	50%	0%
Provincial supervisors	78	69	88%	72%	70%
Municipal supervisors	1,809	1,431	79%	63%	68%
Local Police supervisors	956	966	101%	43%	69%
Total	8,721	6,812	78%	58%	81%

Table 26 The number of 'warnings' issued by supervisors in relation to the total number of 'inspections where an infringement was found'

Table 26 shows that warnings were also a widely used instrument in 2017. A warning was issued in just under 4/5 of all inspections for which an infringement was found. Once again, this is a sharp increase compared to the 58% for the use of this instrument in 2016 and is in line with its use in 2015, which was 81%. Note that this ratio in 2014 and 2013 was only 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 AWW, NV De Scheepvaart and MOW, used the warning instrument and that the use of this instrument by some bodies has remained fairly stable in recent years or – compared to last year – increased considerably for a number of bodies (Local police supervisors, municipal supervisors and provincial supervisors, and OVAM. For all bodies that used the instrument in 2017, except the Department of Environment and Spatial Development - Territorial Development, Environmental Planning and Projects Division (formerly AMV) and AWZ, the instrument was used for at least 50% of all inspections where an infringement was found. 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. For example, the Department of Environment and Spatial Development - Territorial Development, Environmental Planning and Projects Divisions & Flemish Planning Agency for the Environment (formerly ALBON) issued 15 warnings for 15 inspections where an infringement was found but did not draw up any incident reports or official reports. VAZG supervisors also issued 473 warnings for 703 inspections for which an infringement was found. However, no incident reports nor official reports were drawn up. OVAM's supervisors issued 2,268 warnings for the 2,315 inspections where an infringement was detected, but only 53 incident reports and 23 official reports were drawn up.

3.6 EVALUATION OF THE 'INCIDENT REPORT' INSTRUMENT

The 'incident report' is an enforcement instrument that was created when the Environmental Enforcement Decree came into force on 1 May 2009. One of the important amendments to the Environmental Enforcement Decree is the decriminalisation of certain violations of environmental legislation; these violations have a limited impact on the environment and must meet a number of cumulative criteria. This resulted in a list, which is included in the various appendices to the Order of 12 December 2008, of behaviours that qualify as an environmental offence. Such conduct is therefore no longer punishable. The incident report is the tool for reporting environmental offences, so that they can subsequently only be sanctioned administratively. The supervisor may draw up such an incident report, but is not obliged to do so. The supervisor has a discretionary power in this respect and can therefore decide whether or not to use it.

The following table shows the number of incident reports drawn up by the individual supervisory authorities compared to the number of inspections where an infringement was found in 2017. For comparison purposes, this percentage ratio is also given for 2016 and 2015.

Note that the 'incident report' is an instrument used by the supervisor to establish an environmental offence. The figure against which the instrument is compared concerns the number of inspections where an infringement was detected – environmental offences as well as environmental infringements. For this reason, the data below do not reflect the number of times an environmental offence was established and the number of times an incident report was prepared.

Supervisory authority	number of inspections where an infringement was identified	Number of incident reports by supervisors	% share in 2017	% share in 2016	% share in 2015
Department of Environment and Spatial Development - Territorial Development, Environmental Planning and Projects Divisions & Flemish Planning Agency for the Environment (formerly ALBON)	15	0	0%	0%	2%
Department of Environment and Spatial Development - Enforcement - Environmental Inspectorate (formerly AMI)	490	5	1%	3%	2%
Department of Environment and Spatial Development - Territorial Development, Environmental Planning and Projects Divisions (formerly AMV)	153	0	0%	1%	3%
Agency for Nature and Forests (ANB)	1419	99	7%	5%	4%
Agency for Waterways and Sea Canal (AWZ)	7	0	0%	0%	0%
Agency for Roads and Traffic (AWV)	184	0	0%	0%	0%
Flemish Agency for Care and Health (VAZG)	703	0	0%	0%	0%
NV De Scheepvaart	38	0	0%	0%	0%
Public Waste Agency of Flanders (OVAM)	2315	53	2%	0%	1%
Flemish Land Agency (VLM)	554	2	0%	1%	0%
Flemish Environment Agency (VMM)	/	/	/	0%	0%
Department of Mobility and Public Works (MOW)	0	0	0%	0%	0%
Provincial supervisors	78	0	0%	0%	0%
Municipal supervisors	1,809	30	2%	1.08%	1.64%
Local Police supervisors	956	95	10%	10.92%	0.65%
Total	8,721	284	3%	3%	2%

Table 27 The number of 'incident reports' issued by supervisors in relation to the number of 'inspections where an infringement was found'

Compared with the other instruments, it can also be observed for 2017 in general that proportionally the incident report instrument is not used often. A total of 214 incident reports were drawn up in 2016. This rose to 284 in 2017. The slight increase in the actual number of incident reports can be explained by the increased use of the instrument by those supervisory authorities that had already used it in previous years, which means that those who already use the incident report to deal with identified environmental infringements – mainly ANB and the municipal supervisors – are increasingly doing so. The increase in the number of regional incident reports in 2017 compared to 2016 can be attributed to OVAM, which drew up 53 incident reports in 2017 compared to 1 in 2016. OVAM's priority in 2016 focussed on other sectors where identified infringements could only be established in an official report. In 2017 and 2015 when 46 incident reports were drawn up, OVAM's priority was partly to carry out inspections whereby a number of administrative infringements could be included in an incident report.

As mentioned above, the increase in the number of incident reports does not necessarily indicate that the number of environmental infringements detected in 2017 may also have increased. After all, supervisors are free to decide whether or not they draw up an incident report for the identified environmental offence.

In anticipation of the figures in the next chapter, a discrepancy can also be observed for 2017 – as in previous reports – in the number of incident reports drawn up and communicated by the supervisory authorities and the number of incident reports that were also effectively transferred to the regional entity of the Enforcement Division of the Department of Environment and Spatial Development (formerly LNE-AMMC). The municipal supervisors compiled a total of 30 incident reports in 2017, while the regional entity reported that it had received only 6 incident reports from municipal supervisors. Local police supervisors reported that they had drawn up a total of 95 incident reports, while the regional entity only received 6. A slight discrepancy is also observed among regional supervisors in 2017. 159 incident reports were drawn up in 2017. The regional entity reported having received 149 incident reports from these supervisory authorities.

3.7 EVALUATION OF THE 'OFFICIAL REPORT' INSTRUMENT

Where an environmental infringement can be identified by means of an incident report, supervisors must use an official report to report environmental crimes to the public prosecutor's office. The table below gives an overview of the initial official reports drawn up by each supervisor in 2017, in relation to the number of inspections where an infringement was found. For comparison purposes, this percentage ratio is also given for 2016 and 2015.

The limitations of the available figures also apply here just like in the discussion of the 'incident report' instrument. The proportion of the number of official reports drawn up in relation to the number of inspections for which an infringement was found does not provide an entirely accurate picture of how effective environmental crimes are established. After all, the number of inspections where an infringement has been established may cover environmental crimes and environmental offences.

Supervisory authority	number of inspections where an infringement was identified	Priority	% share of priority ORs	Non-Priority	% share of non-priority ORs	% share of priority ORs 2016	% share of non-priority ORs 2016	% share of priority ORs 2015	% share of non-priority ORs 2015
Department of Environment and Spatial Development - Territorial Development, Environmental Planning and Projects Divisions & Flemish Planning Agency for the Environment (formerly ALBON)	15	0	0%	0	0%	0%	3%	0%	0%
Department of Environment and Spatial Development - Enforcement - Environmental Inspectorate (formerly AMI)	490	152	31%	352	72%	36%	65%	43%	57%
Department of Environment and Spatial Development - Territorial Development, Environmental Planning and Projects Divisions (formerly AMV)	153	3	2%	0	0%	1%	0%	23%	0%
Agency for Nature and Forests (ANB)	1419	220	16%	292	21%	18%	20%	13%	23%
Agency for Waterways and Sea Canal (AWZ)	7	3	43%	0	0%	33%	0%	0%	0%
Agency for Roads and Traffic (AWV)	184	5	3%	179	97%	0%	100%	0%	100%
Flemish Agency for Care and Health (VAZG)	703	0	0%	0	0%	0%	0%	0%	0%
NV De Scheepvaart	38	38	100%	0	0%	91%	0%	100%	0%
Public Waste Agency of Flanders (OVAM)	2315	12	1%	11	0%	6%	4%	0%	1%
Flemish Land Agency (VLM)	554	151	27%	3	1%	30%	1%	39%	0%
Flemish Environment Agency (VMM)	/	/	/	/	/	0%	0%	13%	0%
Department of Mobility and Public Works (MOW)	0	0	0%	0	0%	20%	0%	0%	0%
Provincial supervisors	78	1	1%	0	0%	7%	0%	5%	0%
Municipal supervisors	1,809	174	10%	156	9%	9%	11%	9%	9%
Local Police supervisors	956	473	49%	551	58%	31%	27%	26%	19%
Total	8,721	1,232	14%	1,544	18%	16%	19%	13%	13%

Table 28 The number of 'official reports' issued by supervisors in relation to the number of 'inspections where an infringement was found'

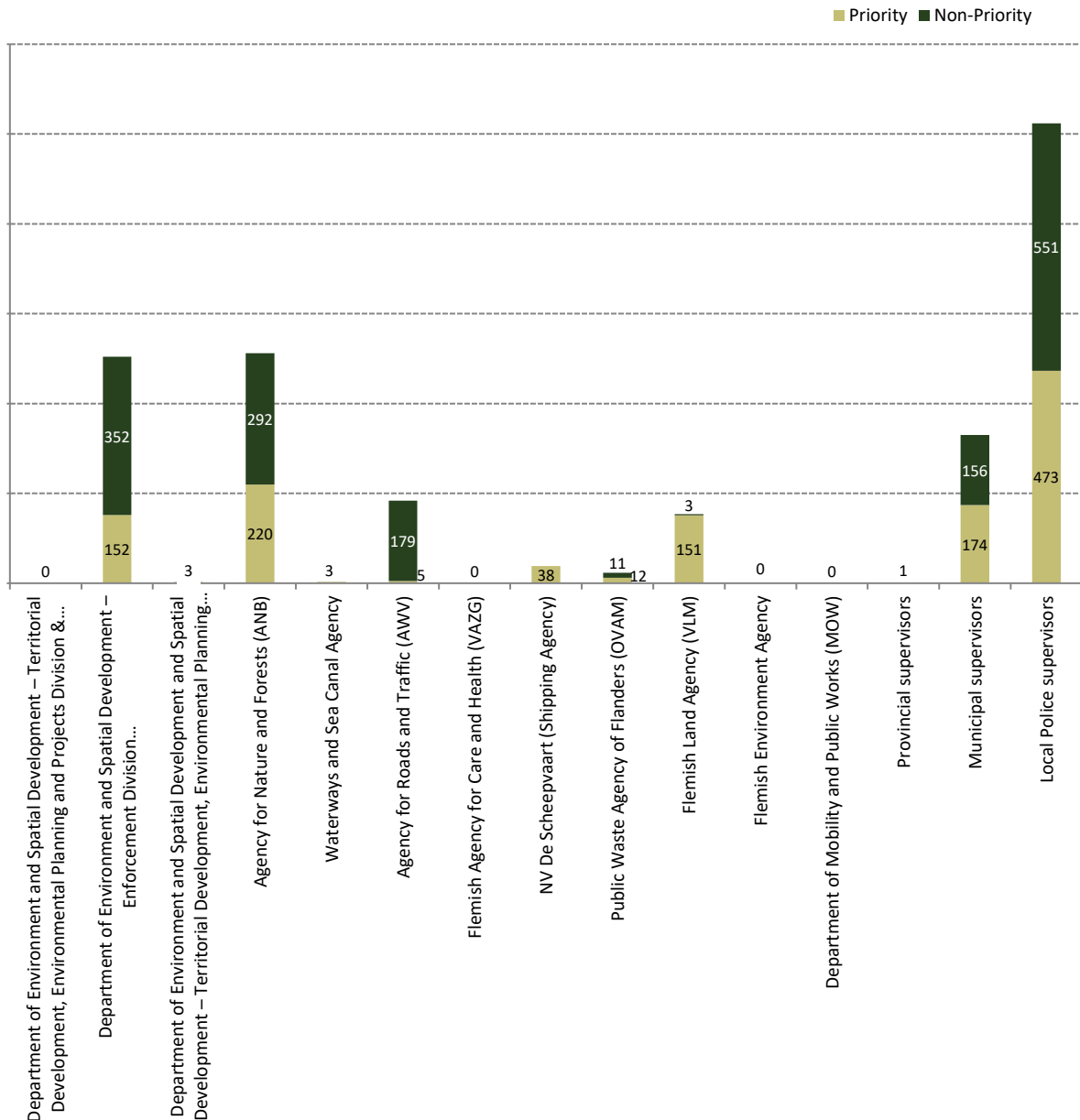
To provide context for the above table, the following remark has been formulated:

- OVAM's supervisors issued 2,268 warnings for the 2,315 inspections where an infringement was detected, but only 53 incident reports and 23 official reports were drawn up. This can be explained by the IMJV inspections: of the 2141 warnings, only a selection of the companies are followed up. In fact, only 45 incident reports were drawn up. Due to limited staff resources, it is not possible to follow up all 2141 companies to the same degree. If we exclude the IMJV inspections, 127 warnings were issued for 174 inspections where an infringement was found; 8 incident reports were drawn up and 23 official reports were drawn up.

An official report was drawn up in 2017 for 2,776 of a total of 8,721 inspections where an infringement was established. This represents a percentage ratio of 32%. Compared to 2016 when this ratio was 34%, a slight percentage decrease in the number of inspections in which official reports were drawn up can be noted, despite the fact that the number of official reports drawn up in absolute numbers increased from 2,317 in 2016 to 2,776 in 2017. This can be explained by the fact that the number of inspections in which an infringement was detected rose from 6,757 in 2016 to 8,721 in 2017, i.e. 29%, while the absolute number of official reports only rose by 20% compared with 2016.

As in the previous reports, the data in table 27 point to the existing pragmatic approach of article 29 of the Criminal Procedure Code, which stipulates that an official report must be drawn up when an offence crime is established and that this official report must be submitted to the Public Prosecutor. Taking into account the limitations of the figures and the fact that the identified violations could also constitute environmental offences, we may conclude that the majority of the supervisory authorities also use other instruments, as already demonstrated in the section on warnings, than the official report in order to achieve the intended objective, without always having to initiate criminal proceedings. The fact that for most supervisory authorities 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 'Priority memorandum on the prosecution policy for environmental law in the Flemish Region' protocol was signed by the Minister of the Environment and the Minister of Justice. This Protocol sets out and aligns the priorities for supervision and criminal/administrative prosecution. This protocol also provides that official reports drawn up for environmental offences included in the priority note are referred to as 'priority official reports'. For the survey on which this Environmental Enforcement Report 2017 is based, the VHRM therefore asked for a distinction to be made between the number of priority and non-priority official reports. The following graph shows this ratio in addition to the figures in table 27.



Graph 11 The ratio between priority and non-priority official reports in 2017

Graph 11 shows the ratio between the number of priority and non-priority official reports drawn up in 2017 per supervisor. In general, this ratio was 44% for priority official reports compared to 56% for non-priority official reports. In 2016 and 2015, the percentage for priority official reports was 45% and 49% 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.

Different kinds of supervisory authorities can be distinguished: Certain bodies, such as the VLM and NV De Scheepvaart, (almost) only draw up priority official reports. On the other hand, other bodies such as the AWV mainly issue non-priority official reports, or draw up both priority and non-priority official reports.

3.8 EVALUATION OF THE 'ADMINISTRATIVE MEASURES' INSTRUMENT AND 'APPEALS AGAINST DECISIONS IMPOSING ADMINISTRATIVE MEASURES'

3.8.1 Evaluation of the 'administrative measures' instrument

Articles 16.4.2 to 16.4.18quater of DABM regulate the imposition, lifting, execution, appeal and requests to impose administrative measures, as well as the possibility of imposing an administrative penalty payment in the event that administrative measures are not implemented on time or not at all. The appeal against decisions imposing administrative measures is discussed in more detail in chapter 3.8.2.

According to article 16.4.7 of DABM, administrative measures may take the form of:

- ▶ an order to take measures to end the environmental offence or crime, to remedy its effects in whole or in part, or to prevent its recurrence (regularisation order);
- ▶ an order to cease activities, works or the use of certain objects (injunction);
- ▶ an actual action by the persons referred to in article 16.4.6, at the expense of the person against whom the administrative measures were imposed, to end the environmental offence or the environmental crime, to remedy the consequences of the environmental offence or the environmental crime in whole or in part, or to prevent its recurrence (administrative coercive measure);
- ▶ a combination of these measures.

The supervisor, the mayor and the provincial governor may therefore choose whether or not to use the administrative measure instrument 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.

The following table gives an overview of the total number of imposed administrative measures in relation to the number of inspections where an infringement was identified by supervisory authority in 2017. For comparison purposes, this percentage ratio is also given for 2016 and 2015.

	number of inspections where an infringement was identified	number of administrative measures imposed by supervisors	% share in 2017	% share in 2016	% share in 2015
Department of Environment and Spatial Development - Territorial Development, Environmental Planning and Projects Divisions & Flemish Planning Agency for the Environment (formerly ALBON)	15	0	0%	0%	0%
Department of Environment and Spatial Development - Enforcement - Environmental Inspectorate (formerly AMI)	490	20	4%	3%	4%
Department of Environment and Spatial Development - Territorial Development, Environmental Planning and Projects Divisions (formerly AMV)	153	0	0%	0%	0%
Agency for Nature and Forests (ANB)	1419	204	14%	13%	11%
Agency for Waterways and Sea Canal (AWZ)	7	0	0%	0%	0%
Agency for Roads and Traffic (AWV)	184	0	0%	0%	0%
Flemish Agency for Care and Health (VAZG)	703	0	0%	0%	0%
NV De Scheepvaart	38	0	0%	9%	100%
Public Waste Agency of Flanders (OVAM)	2315	19	1%	5%	1%
Flemish Land Agency (VLM)	554	4	1%	1%	2%
Flemish Environment Agency (VMM)	/	/	/	0%	4%
Department of Mobility and Public Works (MOW)	0	0	0%	0%	0%
Provincial supervisors	78	0	0%	0%	0%
Municipal supervisors	1,809	97	5%	7%	8%
Local Police supervisors	956	9	1%	2%	4%
Total	8,721	353	4%	6%	5%
<i>in 2016</i>	<i>6757</i>	<i>380</i>	<i>6%</i>		

Table 29 the number of imposed administrative measures in relation to the number of inspections where an infringement was identified in 2017, 2015 and 2016

In 2017, a total of 353 administrative measures were imposed by the supervisory authorities. This is a further decline compared to the 380 administrative measures imposed in 2016 and the 585 administrative measures imposed in 2015. 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.

Table 30 shows that, as in previous years, not all supervisors make use of the administrative measures instrument. The majority of imposed administrative measures were imposed by ANB (Agency for Nature and Forests), i.e. 58%, followed by municipal supervisors, who imposed 27% of the total number of administrative measures imposed in 2017.

The following table gives an overview of the share of the various types of administrative measures per supervisor in 2017. In addition, the survey for this environmental enforcement report also included a question about the number of administrative measures imposed in response to a request. Article 16.4.18. of title XVI of DABM states that persons who meet one of the following definitions may apply for an administrative measure:

- ▶ natural and legal persons who suffer directly as a result of the environmental offence or the environmental crime;
- ▶ natural and legal persons with an interest in curbing the environmental offence or the environmental crime;
- ▶ legal persons within the meaning of the Act of 12 January 1993 on a right of action for the protection of the environment.

Any request to impose an administrative measure must be addressed to persons authorised to implement it. Article 16.4.6 of DABM stipulates that supervisors, for environmental legislation to which their supervisory duties relate; the governor of a province or his deputy, for environmental offences or environmental crimes designated by the Government of Flanders; and the mayor or his deputy, for environmental offences or environmental crimes designated by the Government of Flanders, are all authorised to respond to requests by imposing an administrative measure. Table 29 therefore shows, in addition to the type of administrative measure, the number of administrative measures imposed in response to a request.

To gain insight into the proportion of administrative measures that were not implemented within the imposed period, the various bodies were also asked to provide this number for this environmental enforcement report. These figures are also shown in the following table together with the different kinds of imposed administrative measures.

Since 2014, regional supervisors can impose an administrative penalty payments 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.

	Administrative measures													
	Injunction		Regularisation order		Administrative coercive measure		Combination of the aforementioned administrative measures		Imposed in response to a request		it was not possible to have the AM carried out within the imposed time frame		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?
	#	%	#	%	#	%	#	%	#	%	#	%	#	#
Department of Environment and Spatial Development - Territorial Development, Environmental Planning and Projects Divisions & Flemish Planning Agency for the Environment (formerly ALBON)	0	0%	0	0%	0	0%	0	0%	0	0%	0	0%	0	0
Department of Environment and Spatial Development - Enforcement - Environmental Inspectorate (formerly AMI)	6	30%	10	50%	0	0%	4	20%	1	5%	0	0%	0	0
Department of Environment and Spatial Development - Territorial Development, Environmental Planning and Projects Divisions (formerly AMV)	0	0%	0	0%	0	0%	0	0%	0	0%	0	0%	0	0
Agency for Nature and Forests (ANB)	7	3%	122	60%	67	33%	8	4%	0	0%	10	5%	5	0
Agency for Waterways and Sea Canal (AWZ)	0	0%	0	0%	0	0%	0	0%	0	0%	0	0%	0	0
Agency for Roads and Traffic (AWV)	0	0%	0	0%	0	0%	0	0%	0	0%	0	0%	0	0
Flemish Agency for Care and Health (VAZG)	0	0%	0	0%	0	0%	0	0%	0	0%	0	0%	0	0
NV De Scheepvaart	0	0%	0	0%	0	0%	0	0%	0	0%	0	0%	0	0
Public Waste Agency of Flanders (OVAM)	0	0%	1	5%	18	95%	0	0%	0	0%	0	0%	0	0
Flemish Land Agency (VLM)	0	0%	2	50%	0	0%	2	50%	0	0%	0	0%	0	0
Flemish Environment Agency (VMM)	/	/	/	/	/	/	/	/	/	/	/	/	/	/
Department of Mobility and Public Works (MOW)	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	23	24%	47	48%	9	9%	18	19%	12	12%	20	21%	/	/
Local Police supervisors	5	56%	2	22%	0	0%	2	22%	0	0%	5	56%	/	/
Total	41	12%	184	52%	94	27%	34	10%	13	4%	35	10%	5	0
in 2016	49	13%	230	61%	66	17%	35	9%	7	2%	38	10%	1	0
in 2015	97	17%	258	44%	131	22%	99	17%	55	9%	134	23%	4	1

Table 30 The type of imposed administrative measure in 2017

Table 31 shows that the majority of all 353 imposed administrative measures were regularisation orders in 2017, namely 52% of the total number of imposed administrative measures. In previous years, this was also the most commonly used type of administrative measure. In 2016 and 2015, 61% and 44% respectively of the total number of imposed administrative measures were regularisation orders.

In 2017, the administrative measure an administrative coercive measure 94 times, which means that 27% of the total number of administrative measures involved administrative coercive measures. This is - in absolute numbers - a further increase in the number of times that the administrative measure took the form of an administrative coercive measure compared to 2016, when this instrument was used 66 times. In 2015, this instrument was used as many as 131 times.

A total of 41 injunctions were issued in 2017, representing 12% of the total number of imposed administrative measures. In 2016, this instrument was used 49 times, which represented 13% of the total number of administrative measures imposed. In 2015, this ratio had risen to 17% of all imposed administrative measures.

Approximately 4% of all administrative measures imposed in 2017 were imposed in response to a request. This is a slight increase compared to the 2% in 2016 but less than the 9% in 2015.

The data in the table show that it was not possible to have 35 of the 353 imposed administrative measures implemented within the required period. This equates to 10% which corresponds with this ratio in relation to 2016. It was mainly the administrative measures imposed by local supervisors (municipal supervisors and local police supervisors) that could not be implemented within the imposed deadline. For municipal supervisors, this was 1/5 of the imposed administrative measures, and for local police supervisors, this was even the case for more than half of the imposed administrative measures. A necessary condition for the effectiveness of an administrative measure is that it must also be implemented within an imposed period. Postponing this measure may lead to more damage and increased risks. The 'administrative penalty payment' instrument can offer a solution to exert additional pressure for those administrative measures that are not implemented on time. In 2017, only 5 cases of an administrative penalty payment were linked to an administrative measure. The administrative penalty payment was not actually collected in any of these cases. As in previous years, only ANB made use of the instrument of the administrative penalty payment in 2017. In this context, account should be taken of the fact that the administrative penalty payment instrument could only be used by the regional supervisors in 2017. However, the above data show that approximately between 21% and 56% of administrative measures imposed by local police supervisors and by municipal supervisors are not carried out within the required period. In previous environmental enforcement reports, the VHRM recommended that it would be a good idea if local supervisors were able to make use of the penalty payment instrument. Legislative initiative was therefore taken in 2018 to make this instrument available to local supervisors.

3.8.2 Appeals against 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 Environment and Spatial Development, Enforcement Division within fourteen days of the notification of the decision regarding the administrative measures or the administrative penalty payment.

In 2017, 53 appeals were lodged against decisions regarding administrative measures. One of those appeals was an appeal lodged against a decision on administrative measures to which a penalty payment was linked.

The regional entity of the Enforcement division of the Department of Environment and Spatial Development (formerly LNE-AMMC) is responsible for preparing the appeal case; in other words, the Enforcement division examines its admissibility, organises a hearing if necessary and formulates a recommendation for the minister. The figures obtained via the Enforcement division survey report that that 9 appeals were ruled inadmissible and 44 admissible. Of the 44 admissible appeals submitted in 2017, 12 related to environmental hygiene and 31 to environmental management.

Upon receipt of the appeal, the minister must decide on the admissible appeals within 90 days. 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 measure may expire if the decision is taken too late, it is important that the minister decides within the time limit provided in the decree. The following table gives an overview of the minister’s decisions for admissible appeals against decisions involving administrative measures in 2017, 2016 and 2015.

	2017	2016	2015
Total number of admissible appeals	44	31	39
Decision of the minister within the time limit laid down by decree	36	26	36*
Number of times the minister requested an extension of the deadline	0	2	3
Number of cases in which the minister has not yet made a decision because the term was still running at the time of reporting	7	5	
Number of appeals fully upheld	3	3	5
Number of appeals partially upheld	14	9	9
Number of appeals declared unfounded	18	9	15
Number of appeals void of purpose	1	5	7

Table 31 A comparison of the minister’s decisions for admissible appeals in relation to decisions involving administrative measures in 2017, 2016 and 2015

Table 32 shows that, in 2017, a decision was taken on 36 admissible appeals within the time limit set by the decree. For the other 7 appeals, the period within which the minister had to take a decision

had not yet expired at the time of the report. This means that a decision was not made in time for 1 case. The non-timeliness was due to an administrative error.

The majority of the minister’s decisions in 2017, i.e. 50%, concerned a dismissal of the appeal as unfounded, while 39% were partially upheld and only 8% fully upheld. Moreover, 3% (1 case) of the minister’s decisions concerned appeals devoid of purpose³² In 2016 and 2015, the minister’s decisions concerned appeals justified in full in 12% and 14% of cases respectively; 35% and 25% justified in part; 35% and 42% of appeals were based on an unfounded statement of grounds. In addition, 19% of the minister’s decisions were devoid of purpose in 2016 as well as in 2015. 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; this constitutes an integral confirmation of the administrative measure.

The following table shows the number of appeals against decisions involving administrative measures in relation to the total number of imposed administrative measures for 2017, 2016 and 2015.

Type of imposed administrative measure	2017	2016	2015
Injunction	19.51%	14%	5%
Regularisation order	17.39%	10%	12%
Administrative coercive measure	0%	2%	2%
Combination of the aforementioned administrative measures	8.82%	3%	4%
In how many cases was an administrative penalty payment linked to it?	0.26%	0.26%	/

Table 32 The percentage share of the number of appeals against decisions involving administrative measures in relation to the total number of imposed administrative measures per type for 2016, 2015 and 2017.

The table shows that, just as in previous years, the appeals lodged in 2017 were mainly related to injunctions. For example, 8 appeals were lodged against the 41 imposed injunctions issued in 2017. No appeal was lodged in 2017 against the 94 imposed administrative measures that involved administrative coercive measures.

Number of appeals lodged against dismissed requests to impose administrative measures and decisions relating thereto

Article 16.4.18 §4 of DABM stipulates that an appeal may be lodged with the minister against a refusal to impose an administrative measure. The minister shall decide on the appeal within sixty days of its receipt. The regional entity of the Enforcement division of the Department of Environment and Spatial Development (formerly LNE-AMMC) advises the minister on these appeals.

The following table gives an overview of the number of appeals lodged against dismissed requests to impose administrative measures.

³² The difference between an inadmissible appeal and an appeal devoid of purpose can be illustrated by a few examples. An inadmissible appeal does not meet the conditions for admissibility. For example, the time limits for appeal were not respected or a copy of the contested decision was not attached to the appeal case. Appeals declared devoid of purpose, for example, appeals in which the administrative measure was lifted by the supervisor himself, after all the conditions contained in the decision on administrative measures had been met by the offender. The purpose of the appeal no longer exists because the offender has amended his situation but *after* the appeal has been declared admissible.

	2017	2016	2015
Total number of appeals lodged against dismissed requests to impose administrative measures	18	11	5
Number of appeals declared admissible	12	9	3
Number of appeals fully upheld	3	3	2
Number of appeals partially upheld	0	0	/
Number of appeals declared unfounded	8	3	1
Number of appeals void of purpose	1	2	0
Appeals for which a decision was taken within the period of 60 days as laid down by decree	11	7	3
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	0	/
Number of appeals related to environmental hygiene	12	11	/
Number of appeals related to environmental management	0	0	/

Table 33 The number of appeals lodged against refused requests to impose administrative measures in 2016, 2015 and 2017

Table 34 shows that, in 2017, 18 appeals were lodged against dismissed requests for the imposition of administrative measures. This is a further increase compared to 2016 and 2015 when 11 and 6 of such appeals respectively were lodged.

67% of the appeals lodged in 2017, all of which were related to environmental hygiene, were declared admissible. This means that 6 appeals were declared inadmissible. 3 out of 12 admissible appeals were upheld, 8 were dismissed as unfounded, and 1 appeal was declared devoid of purpose.

For 11 of the 12 admissible appeals, the decision was taken within the 60-day period laid down by the decree.

3.9 EVALUATION OF THE 'SAFETY MEASURES' INSTRUMENT

Chapter VII of title XVI of DABM discusses, inter alia, the procedure for taking safety measures with regard to persons responsible for significant risks, as well as for lifting safety measures. For a better understanding of the figures below and the accompanying evaluation, articles 16.7.1 and 16.7.2 of the Environmental Enforcement Decree are reproduced below.

Article 16.7.1 defines the 'Safety Measures' instrument as: "Safety measures are measures whereby persons as specified in §1 can take or impose all actions that they deem necessary in the given circumstances to eliminate, reduce to an acceptable level or stabilise a significant risk to man or the environment." The following article, article 16.7.2, provides that safety measures may include, inter alia:

- ▶ the suspension or execution of works, operations or activities immediately or within a specified period;
- ▶ the prohibition on the use or the sealing of buildings, installations, machinery, apparatus, means of transport, containers, land and anything therein or thereon;
- ▶ the total or partial closure of an establishment;
- ▶ the confiscation, storage or removal of relevant items, including waste materials and animals;
- ▶ the prohibition or evacuation of certain areas, grounds, buildings or roads.

Taking a safety measure is therefore an administrative act for which supervisors, mayors and provincial governors have a discretionary power.

Unlike supervision and the enforcement instruments discussed in this chapter, the use of safety measures is not part of the enforcement process. Safety measures may be imposed where there is a significant risk to man or the environment. This means that safety measures are a completely separate category within the Environmental Enforcement Decree, so they do not constitute an administrative measure nor an administrative fine or a criminal sanction. Although they are restrictive measures, they do not presuppose any fault on the part of the person to whom they are addressed, nor are they intended to punish. A safety measure focuses on the public interest and in particular on safeguarding public health, order, rest and safety³³. Since safety measures can be imposed by, among others, supervisors as described in the Environmental Enforcement Decree, they are included as instruments in this chapter. However, it is not our intention to weigh the number of imposed safety measures against the total number of performed environmental enforcement inspections, as was the case with the previous instruments. We will only investigate how many and which safety measures were taken by which bodies.

The following table gives an overview for 2017 of the number and type of imposed safety measures, broken down by supervisory body. The supervisory authorities were also asked to report the number of safety measures for which it was not possible to enforce the measure within the imposed time limit. This table also shows the total number of safety measures per body for 2016 and 2015. 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.

³³ Explanatory Memorandum, Parliamentary Proceedings, Session 2006-2007, 13 June 2007, document 1249 (2006-2007) - no. 1, p.12 and p.15.
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Supervisory authority	Suspension or execution of works, operations or activities	the prohibition on the use or the sealing of buildings, installations, machinery, apparatus, means of transport, containers, land and anything therein or thereon;	the total or partial closure of an establishment	the confiscation, storage or removal of relevant items, including waste materials and animals	the prohibition or evacuation of certain areas, grounds, buildings or roads	Other	Combination	Total 2017	Total 2016	Total 2015	it was not possible to have the safety measures carried out within the imposed time frame
Department of Environment and Spatial Development - Territorial Development, Environmental Planning and Projects Divisions & Flemish Planning Agency for the Environment (formerly ALBON)	0	0	0	0	0	0	0	0	0	0	0
Department of Environment and Spatial Development - Enforcement - Environmental Inspectorate (formerly AMI)	0	0	0	0	0	0	0	0	1	1	0
Department of Environment and Spatial Development - Territorial Development, Environmental Planning and Projects Divisions (formerly AMV)	0	0	0	0	0	0	0	0	0	0	0
Agency for Nature and Forests (ANB)	1	0	0	0	0	0	0	1	0	0	0
Agency for Waterways and Sea Canal (AWZ)	0	0	0	0	0	0	0	0	0	0	0
Agency for Roads and Traffic (AWV)	0	0	0	0	0	0	0	0	0	0	0
Flemish Agency for Care and Health (VAZG)	47	0	0	0	0	0	0	47	29	0	0
NV De Scheepvaart	0	0	0	0	0	0	0	0	4	41	0
Public Waste Agency of Flanders (OVAM)	0	0	0	0	0	0	0	0	0	16	0
Flemish Land Agency (VLM)	0	0	0	0	0	0	0	0	0	1	0
Flemish Environment Agency (VMM)	/	/	/	/	/	/	/	/	0	0	/
Department of Mobility and Public Works (MOW)	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	15	4	2	24	5	3	1	54	29	29	0
Local Police supervisors	4	2	0	4	0	0	1	11	17	42	0
Total	67	6	2	28	5	3	2	113	80	130	0
<i>in 2016</i>								80			1

Table 34 Nature of the imposed safety measures

A total of 113 safety measures were imposed in 2017. This is an increase compared to the 80 safety measures imposed in 2016, but the number is lower than the number of safety measures in 2015 when 130 safety measures were imposed.

The majority, i.e. 48% of the total number of imposed safety measures, are imposed by municipal supervisors, as in previous years. In 2017, VAZG imposed 42% of the total number of imposed safety measures. Besides VAZG, only one regional supervisory authority imposed safety measures in 2017, namely ANB. The supervisors of NV De Scheepvaart did not impose any safety measures in 2017, in contrast to 2016 and 2015, when respectively 4 and 41 safety measures were imposed. The local police supervisors imposed 11 safety measures in 2017.

In 28 out of a total of 113 imposed measures, the safety measure involved confiscating, storing or removing of sensitive items, including waste and animals; in 59% of cases, the suspension or execution of works, operations or activities; and in 4% of cases, the safety measure involved a prohibition or evacuation of certain areas, grounds, buildings or roads.

The data shows that in 2017, all safety measures imposed were implemented within the imposed deadline. In 2016 and 2015, 1% and 7% respectively of the total number of safety measures imposed were still not implemented within the imposed deadline. This is a very positive trend.

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 obtain 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 are presented below.

Agency for Nature and Forests

The administrative measure is a very efficient enforcement instrument whereby the supervisor can shut down works as he may deem necessary, impose reparation or seize items whose use or possession is prohibited. The Nature Inspectorate of the Agency for Nature and Forests (ANB) was quick to grasp this and has imposed dozens of administrative measures every year since the environmental enforcement decree came into force. In addition, since mid 2014, administrative penalty payments can be imposed on reluctant offenders to force them to implement the measure. This is not often necessary, but the ANB's Nature Inspectorate has already imposed several administrative measures with an administrative penalty payment. The following example is an excellent example of the effectiveness of this administrative measure (with administrative penalty payment):

A woman in the real estate sector committed several infringements on several plots of land she had purchased with the intention of making a profitable sale. She often deforested the land to increase the sales value. Initially, official reports were used whereby the public prosecutor's office was requested to impose reparation before the court. However, because of the long procedure time, the offender just continued to commit additional infringements, and the Nature Inspectorate eventually imposed an administrative measure with a penalty payment. This immediately had the following effect: within 4 months, the plot was repaired and the offender also carried out repairs on plots still subject to administrative measures without penalty payments, knowing that she would not be able to avoid the measures. This illustrates that administrative enforcement is both efficient and effective, not least because the processing time is many times shorter than the judicial procedure, which often only enforces reparation after many years. For this reason, the Nature Inspectorate, as a rule, no longer works with the authorised official for restitution claims (judicial procedure) for the above reasons.

Enforcement Division

In May 2017, the Enforcement division received a request from the municipal authority to impose an administrative measure on a layer hen farm, more specifically a request to close down the operation, on the one hand because of persistent complaints about odour and dust nuisance, and on the other hand because of non-compliance with a requirement previously imposed by the minister.

This requirement was imposed by the minister as an amendment to a previously imposed administrative measure and stated that, in the event of a final refusal of the permit application for the regularisation of the situation, the company must be made fully compliant with the environmental permit granted, including the licensed low ammonia emission stable system.

The layer hen farm in question did not have a low ammonia emission stable system as imposed in the granted environmental permit. In addition, an odour and dust nuisance problem also occurred in the vicinity of the business. In 2013, the former Environmental Inspectorate division drew up an official report for this request, which led to the imposition of an initial administrative measure (decision to close it) but which was amended on appeal by the minister in the sense that the operator was allowed to submit a new application for regularisation.

However, the regularisation application resulted in a final refusal of the environmental permit. Since several complaints had been received by the municipality in the meantime, the municipal administration considered it advisable to ask for the closure of the business again.

The Enforcement division immediately addressed this issue because, in the light of the recent refusal of regularisation, the business was still unlicensed for the operation of the low ammonia emission stable system.

The imposed administrative measure included an order to close down the layer hen farm. Since the stable was empty at that time, this meant that no more poultry could be kept in the stable.

The supervisors of the Enforcement division imposed in their decision a number of conditions that had to be met in order for the administrative measure to be lifted. The layer hen farm must have an environmental and urban development permit or an integrated environmental permit. The actual business situation must meet the requirements of the environmental and urban planning permit and the corresponding plan. Finally, all measures must be taken to operate the low ammonia emission stable system as laid down in the Ministerial Order on low ammonia emission stable systems of 19 March 2004 and in the granted integrated environmental permit.

In addition to environmental infringements, urban planning violations were also found at the company concerned, for which both the municipality and the then RWO inspectorate of Limburg drew up official reports. The RWO inspectorate (Spatial Planning, Housing Policy and Immovable Heritage Policy Area) submitted a recovery claim to the public prosecutor's office after the High Council had issued a positive opinion.

In the meantime, the business has applied once again for an environmental permit to change the establishment, and in particular to change the low ammonia emission stable system. This environmental permit was granted by the minister in the beginning of 2018; it is subject to the installation and operation of a biological air scrubbing system as a special condition.

The company has also submitted a regularisation application for the urban development permit. Following a refusal by the Board of Mayor and Aldermen in 2017, an appeal was lodged with the Province. However, the appeal was retracted by the party in question.

Considering the link between environmental and urban development permit and the fact that the business does not yet have a valid urban development permit, this means that the operation of the layer hen farm can still not be resumed and remains closed until the urban development permit is granted.

This case study shows that, for enforcement purposes too, the introduction of the integrated environmental permit offers an opportunity for a more efficient approach to problems related to both the environment and urban development.

Public Waste Agency of Flanders

In 2017, more attention was paid to monitoring the disposal of waste oil. There was a suspicion that, once again, more waste oil was being incinerated than before because, unlike in the past, the collection had to be paid for (in the past, compensation was received) and the collection figures were falling. The purpose of this inspection campaign was to check whether a large number of garages could present waste oil collection certificates and to try and verify whether waste oil was being incinerated (inspect heating installation).

At the garage below, an incineration device that worked on waste oil was still present (see oil drum below). After our inspection, the old incineration device and the oil drum were dismantled and removed. This action prevents further pollution caused by waste oil in the future

BEFORE



AFTER



Enforcement Division

A chemical company experienced a number of power cuts in a short period of time in 2016 and 2017, which led to production disruptions. This resulted in uncontrolled emissions of hazardous substances in the environment.

The Enforcement division initiated an investigation in response to these incidents. This incident investigation resulted in various corrective measures. The corrective measures are twofold in nature:

- Preventive measures aimed at better monitoring the integrity of electrical installations. These measures must reduce the risk of a new electricity blackout. This includes a preventive maintenance plan, dust-reducing measures in the switch rooms and some technical adjustments to the electrical distribution boards.
- Consequence-reducing measures to prevent the recurrence of hazardous substances emissions in the event of a new power failure. These measures are crucial considering that an electricity blackout can never be completely ruled out. Auxiliary units were therefore installed in a number of substations to provide emergency power for critical systems.

The company was warned by the Enforcement division in writing to implement these corrective actions. In the course of 2017, most of this had already been realised.

Flemish Land Agency

CASE STUDY - MANURE PROCESSING PLANT NOORDERKEMPEN

In the beginning of February 2018, Manure Bank supervisors carried out site inspections. Because effluent deposits are often very full during this period of the year, a number of manure processes are checked to see if they are not likely to overflow.

Upon arrival at a biology-type manure treatment plant, they found that effluent was seeping from the dike of an aboveground effluent basin. It seemed that repairs had already been carried out by the operator, but nevertheless the verge of the basin had become so saturated that effluent was able to reach a nearby road ditch.

The operator was contacted. He indicated that the dike had been reinforced with clay a month earlier because a small part was washing away.

As this work was clearly insufficient to solve the problem permanently, an administrative measure was imposed.

First, the operator had to dig a trench leading to a hole from where the collected effluent could be pumped back to the basin. In addition, the level in the manure basin had to be lowered to reduce the pressure on the dikes. The basin then had to be emptied completely for final repairs or for the construction of a completely new basin.

The operator carried out the requested actions and the construction of a new effluent basin will start in the summer.



1 week later: level in basin has dropped

3 months later:



CASE STUDY - CUCUMBER FIRM

In June 2016, VLM were notified that excess drain water (= water with fertilisers) was being discharged into a piped watercourse in a greenhouse cultivation company. The watercourse is at the location of a MAP (manure action plan) measuring point and flows under the horticultural company. The measurement point was red due to this influence and it also affected the other surrounding farms (focus area).

The first on-site visit took place on 26 July 2016. It turned out to be a greenhouse cultivation company that grows cucumbers on substrate (the plants are grown on an artificial substrate and the necessary nutrients are supplied via nutrient water). At that time, high nitrate concentrations (>

500 mg/l) could be observed in various inspection pits of the piped watercourse. These were not present in the watercourse upstream of the company, but they were present downstream of the company. So the nitrates somehow entered the watercourse under the horticultural company. The operator indicated that he did not know the cause of these concentrations. We drew up an OR of our findings and urged the operator to locate the cause of the discharge before September 2016.

VLM visited the site again in the course of September 2016. Once again, high nitrate concentrations (> 500 mg/l), which are a sign of discharges, were observed in the various inspection pits of the piped watercourse. The operator had checked his installation in the meantime and said that he could not find the cause. In October 2016, VLM found new nitrate concentrations but this time they were slightly lower (200 mg/l). The operator still had no idea of the cause. He suggested checking whether high nitrate concentrations are also measured when no plants are in the greenhouse (and no nutrient water is given). The greenhouse would be empty in December. To follow up the situation, VLM visited in November and the situation remained unchanged.

VLM visited again in December. In the meantime, the greenhouse was empty (all plants had been removed). High nitrate concentrations were still measured in the inspection pits. In the greenhouse it became clear that the bottom 2 layers of plastic film were badly damaged, so nutrient water seeping from the roots (= drain water) could make its way to the substrate. At the locations where the drain water came out of the drainage pipes and was drained via the gutters to underground drainage pipes, almost no plastic film was left. We also established that a supply pipe for nutrient water was leaking. The operator mentioned that the lower film had never been replaced. We also found that the connections to the pipes used to evacuate the drain water were not completely watertight. The operator received a warning and was ordered to lay a new film before January 2017, to repair the connections to the drainage pipes, and to realign the drain channel profiles properly.



Photo View of the greenhouse without plants, the plastic film is worn. We told the horticulturist to replace the film and also to renew the connections on the drainage pipes.



Photo View of the greenhouse after our warning; the film has been completely replaced as requested

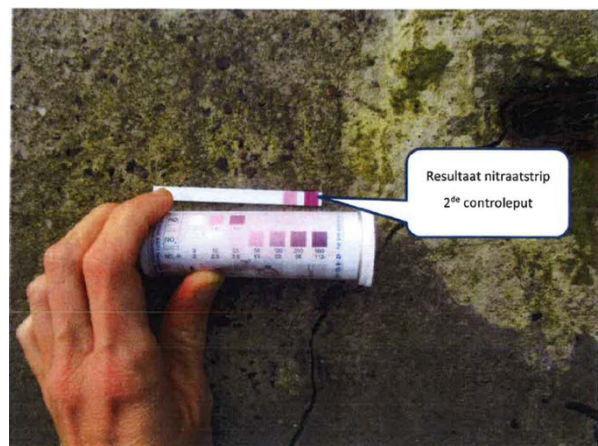


Photo View of one of many nitrate measurements from the 2nd inspection pit. Nitrate strip shows a result of > 500 mg / l

In January 2017, VLM visited the site again and they found that all the film in the greenhouse had been renewed.

In April 2017, VLM went back to the site and high nitrate concentrations, which indicate discharges, were again found in the inspection pits. As a result of these findings, a new initial official report was drawn up and an administrative measure was imposed. The administrative measure required the operator to stop the discharge and to fully expose the piped watercourse in the greenhouse (in order to be able to see any drainage pipes connected to the watercourse, and to leave these visible until an inspection had been carried out). The operator had to carry out weekly nitrate measurements himself and inform VLM if values exceeded > 100 mg/l nitrate. In the course of May, the operator contacted VLM and announced that the measures imposed by the administrative measure were being implemented and that the piped watercourse was visible and open in the greenhouse. It was found that no supply pipes lead to this piped watercourse. However, it was found that the supply pipes for nutrient water were in poor condition and that the connections were not correct.

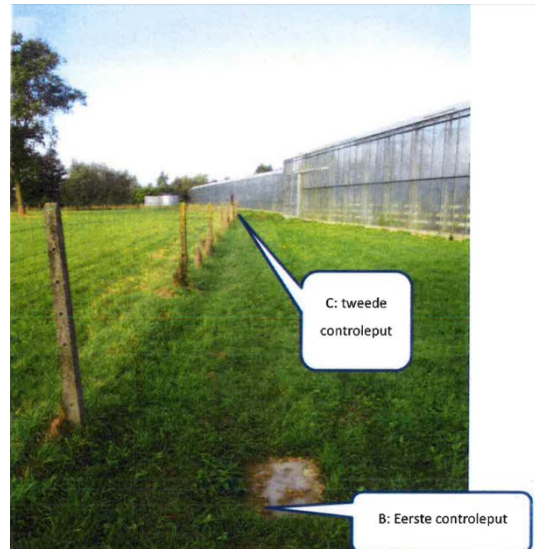


Photo View of 2 inspection pits above the piped watercourse which runs under the farm

In May 2017, the imposed administrative measure was lifted as all the requested measures had been implemented. The groundwater around the pipe of the piped watercourse still has increased nitrate concentrations. The soil had been saturated with nitrate-rich drain water for years.

VLM visited the site again in June 2017. High nitrate concentrations were no longer observed in the inspection pits of the piped watercourse. The operator reported that in the meantime investments are being made in additional storage to collect drain water. VLM will continue to monitor the company in the future.

CASE STUDY: INSPECTIONS OF SAMPLE TAKERS WHEN TAKING SOIL SAMPLES TO DETERMINE NITRATE RESIDUE

Every year, during October and the first half of November, soil samples are taken on thousands of agricultural plots to determine the nitrate residue in accordance with the Manure Decree, the so-called nitrate residue campaign. Nitrate residue is the amount of nitrate nitrogen that remains in the soil at the end of the cultivation season. If the nitrate residue is too high, above predetermined thresholds, the nitrate may leach to ground and surface water. The assessment of the nitrate residue is an evaluation

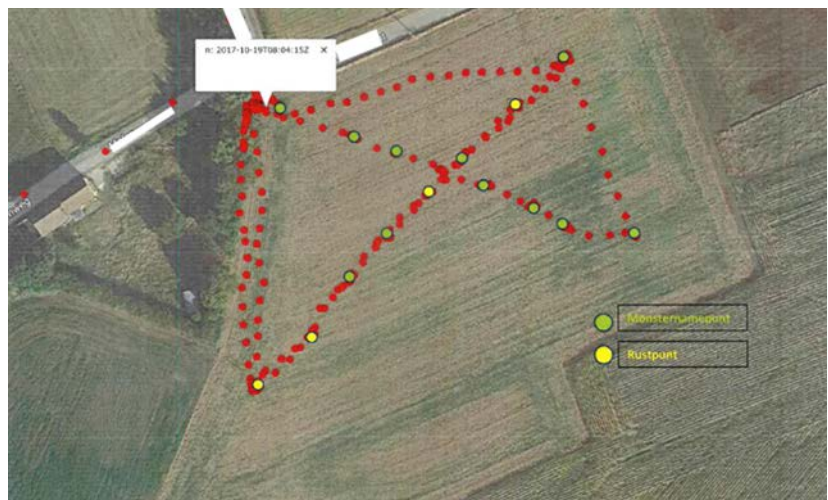


Photo Photo: Data log points of a sample. Green dots indicate a hole that was actually drilled; yellow dots indicate a false drilling hole.

of a fertilisation practice applied by the farmer. If the evaluation is negative, stricter fertilisation and monitoring rules are imposed on the farm.

Determining the correct nitrate residue is required to be able to impose tighter measures or grant exemptions to farmers. Some farmers put pressure on sample takers to take a selective sample and not all sample takers respect the rules of the sampling compendium. The enforcement service of the Flemish Land Agency is therefore strongly committed to the supervision of the 150 sample takers associated with accredited laboratories. Supervisors carry out both ad hoc inspections and targeted inspections on sample takers or at farmers that failed to follow regulations closely during previous campaigns.

Insufficient drilling is a common infringement in soil sampling. A minimum of 15 holes must be drilled per 2 ha plot to minimise variability in the nitrate residue. Insufficient drilling results in incorrect measurements and possible unjustified extra measures or exemptions as a result.

A logging system for drilling is provided. Some sample takers try to circumvent this system by only drilling 11 effective holes, for example (see picture), and then stand still 4 times on the plot without drilling. Effective field checks are able to identify abuses. The sample taker is notified, confronted with the findings and preventively excluded from taking further samples.

In addition to violations when using the data logging system, other infringements are also determined by VLM's supervisors, namely the insufficient depth of the drill bit, the use of unclean material, bribery of the sample taker, samples taken at wrong locations, etc.

From 2016 onwards, VLM started carrying out stricter inspections, and Incident Reports and Official Reports have been drawn up in the event of serious infringements. At the beginning of 2018, the infringements included in the first Incident Reports were appropriately sanctioned administratively by the regional entity.

The inspections announced in the field clearly have a preventive impact. Sample takers and farmers now know that unannounced inspections are always possible and abuse is punished.

4 EVALUATION OF THE FLEMISH ENVIRONMENTAL SANCTIONING POLICY

The addition of a title XVI "Supervision, enforcement and safety measures" to the decree of 5 April 1995 on the general provisions on environmental policy (DABM) created a framework that, in addition to criminal sanctions, also allows administrative sanctions to be imposed by means of alternative and exclusive administrative fines, with or without expropriation of unlawful material benefits³⁴. For this purpose, a distinction is made between environmental crimes and environmental offences. The latter are actually minor violations with a limited impact on people or the environment, and they are listed exhaustively by the Government of Flanders in the appendices to the implementing decree of the Environmental Enforcement Decree³⁵. These environmental offences cannot be punished by criminal law, but they can be sanctioned with an exclusive administrative fine by the regional sanctioning entity of the Enforcement Division of the Department of Environment and Spatial Development (see below: regional sanctioning entity) set up for that purpose. On the other hand, an alternative administrative fine can only be imposed for environmental crimes. In principle, such offences can be dealt with under criminal law, but if the Public Prosecutor decides not to treat them under criminal law and informs the regional sanctioning entity in time, the environmental crimes can be sanctioned by the regional sanctioning entity with an alternative administrative fine. The decision by the Public Prosecutor whether or not to prosecute the case is made on the basis of guidelines in the 'Sorting Memorandum'.³⁶ 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 prosecutor's offices themselves and which cases will be submitted to the regional sanctioning entity for administrative fines, so that every official report is properly dealt with.

A supervisor has the power to compile an official incident report in the event that environmental infringements are encountered. This incident report is immediately transmitted to the regional sanctioning entity. The regional sanctioning entity may impose an exclusive fine, with or without expropriation of unlawful material benefits. Upon receipt of the incident report, the regional sanctioning entity has a 60-day period within which to notify the suspected offender of its intention to impose an exclusive administrative fine (which may or may not involve the expropriation of unlawful material benefits). Within 90 days further to the notification, to the regional sanctioning entity will decide on whether or not to impose an exclusive administrative fine, which may or may not involve the expropriation of unlawful material benefits. The suspected offender is to be notified of this decision within 10 days.

When an environmental crime is established, the reporting officer immediately transmits an official report to the Public Prosecutor attached to the court with jurisdiction for the legal district where the environmental offence was committed. Along with the formal report, a written petition is to be included in which the Public Prosecutor is requested to pronounce on whether or not the environmental offence is to be criminally prosecuted. The Public Prosecutor has 180 days from the date on which he received the official report to return his reply. Before this time limit has expired it may be extended once only by a further period of no more than 180 days. Any such extensions must be justified. The regional sanctioning entity is to be informed of this extension. Both the decision by the Public Prosecutor to bring the environmental offence before the criminal

³⁴ An unlawful material benefits is a sanction whereby an offender is obliged to pay a sum of money, estimated or otherwise, equivalent to the gross amount of the unlawful material benefits derived from the environmental infringement or crime (as defined in the environmental glossary).

³⁵ The 'administrative obligation' criterion was deleted with a view to further decriminalising certain violations of environmental law (amendment to the Environmental Enforcement Decree 2013).

³⁶ <https://www.lne.be/sorteernota-van-het-openbaar-ministerie>

court, as well as the Public Prosecutor's failure to notify the regional sanctioning entity of his decision in timely fashion, preclude the imposition of an administrative fine by the regional sanctioning entity.

If the Public Prosecutor has informed the regional sanctioning entity in time of his decision not to criminally prosecute the environmental offence, the regional sanctioning entity is to initiate the procedure for the possible imposition of an alternative administrative fine. Upon receipt of this decision, the regional sanctioning entity 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). The regional sanctioning entity 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). The suspected offender is to be notified of this decision within 10 days.

Both in the case of an alternative and an exclusive administrative fine, the suspected offenders may file an appeal with the Environmental Enforcement Court against the decision of the regional sanctioning entity.³⁷

In 2012, the administrative transaction was introduced with the Decree of 20 April 2012 containing various provisions relating to the environment and nature³⁸, the procedure for which entered into force on 23 August 2012. The Government of Flanders Order of 6 July 2012 elaborates on the modalities of the administrative transaction³⁹. Since 2012, and to impose an alternative or exclusive administrative fine, the regional sanctioning entity may 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 need to be irrefutably established on the part of the offender. 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 Decree, the Flemish Land Agency was already authorised to impose administrative fines for the violations listed in Article 63 of the Decree of 22 December 2006 on the protection of water against pollution caused by nitrates from agricultural sources (Manure Decree). The decree stipulates who can be fined and the amount of the fine. For serious violations, included in article 71 of the same decree, the Flemish Land Agency could already draw up an official report with possible criminal prosecution by the Public Prosecutor as a consequence.

This section, which evaluates the Flemish sanctioning policy in 2017, will therefore not only look at the activities of the public prosecutor's offices, but also at those of the regional sanctioning entity, the Environmental Enforcement Court and those of the Flemish Land Agency.

³⁷ With the entry into force of the regulations on the enforcement of the integrated environmental permit, the Environmental Enforcement Court was renamed the 'Enforcement Court' since 1 March 2018. Given that this Environmental Enforcement Report relates to the year 2017, the term 'Environmental Enforcement Court' is still used in this report.

³⁸ Publication in the Belgian Official Gazette: 22 May 2012.

³⁹ GFO of 6 July 2012, BOG 13 August 2012

4.1 EVALUATION OF THE CRIMINAL SANCTIONING POLICY

As already described above, when an environmental crime is established the reporting officer immediately transmits an official report to the Public Prosecutor attached to the court with jurisdiction for the legal district where the environmental offence was committed. It is therefore important to evaluate, in this environmental enforcement report, the criminal sanctioning policy in 2017. The Flemish High Enforcement Council for Spatial Planning and Environment has therefore asked the Board of Procurators General, to report, among other things, how many cases were submitted to the public prosecutor's offices of the Flemish Region and how these cases were processed.

As with the other enforcement bodies, the public prosecutor's offices were also asked how many FTEs were used for environmental enforcement tasks in 2017. Table 35 shows the number of FTEs for environmental public prosecutor magistrates.

Environmental public prosecutor magistrates	FTE
Antwerp	2
Limburg	0.8
Halle-Vilvoorde	0.2
Leuven	0.5
East Flanders	1.9
West Flanders	0.9
TOTAL	6.3

Table 35 The number of FTEs for environmental public prosecutor magistrates

With regard to table 35, the public prosecutor's offices point out that each public prosecutor magistrate who is responsible for dealing with criminal cases relating to the environment, 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 with 100% accuracy. The reported FTE figures are therefore estimates.

It can be observed that the number of FTEs for public prosecutor magistrates in 2017 is slightly higher than in 2016, when 6.1 FTEs were deployed for environmental enforcement cases.

Before the other figures can be discussed, a few comments about the data in this environmental enforcement report must also be made first.

The figures are taken from a central database of the Board of Procurators General. This database is based solely on the registrations made by the criminal divisions of the public prosecutor's offices at the courts of first instance and does not contain any data on the number of environmental cases handled by the public prosecutor's offices or cases related to the environment ⁴⁰handled by the prosecutor's offices of the police.

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

⁴⁰ It should be noted that some cases relating to environmental management law fall under the competence of the prosecutor's offices of the police and the police courts (e.g. the official reports drawn up for violations of forest or fisheries legislation, even if the violations are considered to be misdemeanours). These environmental cases are therefore not all included in the reported figures.

The provided figures are based on the latest data extraction on 8 January 2018. All data relating to the progress of a case are therefore limited to the situation on that extraction date. It should be noted that it is in fact still too early to draw conclusions, based on the data extraction of 8 January 2018, with regard to how the handling of cases differs compared to cases registered in 2017. The figures are only indicative because the progress of these cases may have evolved since the extraction date. Nevertheless, an effort will be made to identify some trends.

Cases brought to the Public Prosecutor's Office are assigned a main indictment code and one or more additional indictment codes (prevention codes) where applicable. A main indictment code must therefore always be assigned to the case as soon as it is entered in the public prosecutors' computerised system. The registration of additional indictment codes does not occur everywhere; some public prosecutor's offices do not register them.

The following statistics are based on all cases for which at least one of the following indictment codes, as used by the public prosecutor's offices, was registered, with a breakdown by topic (environmental management law, waste, manure, permit and emissions)⁴¹ as proposed by the VHRM.

- ▶ Environmental management law:
 - 63A - Hunting
 - 63B - Fishing
 - 63M - Forest decree
 - 63N - Washington Convention - protected animal species, plants and ivory
 - 64J - Decree on nature conservation and the natural environment, including the prohibition and authorisation requirement for changes to vegetation and small landscape features

- ▶ Waste:
 - 64E - Unauthorised dumping
 - 64F - Waste management
 - 64L - Import and transit of waste (L 09.07.1984)

- ▶ Manure:
 - 63I - Fertilizers
 - 63O - Manure decree

- ▶ Permit:
 - 64D - Commodo-Incommodo (environmental permit)
 - 64H - Operation of an establishment without a permit
 - 64I - Non-compliance with VLAREM legislation

⁴¹ It should be noted that the final selection also includes cases pertaining to infringements that do not strictly fall under the Environmental Enforcement Decree. It should also be noted that cases registered under code '63N' fall under regional jurisdiction, except import, export and transit of exotic plant and animal species, which is a federal competence. To clarify the above data, it should be stated that, strictly speaking, code 63N (Washington Convention – protected species, plants and ivory) does not fall under environmental management since environmental management law is defined in the Environmental Enforcement Order as the set of legal rules for the management of the environment and nature on the one hand, and nature conservation and the promotion of biological and landscape diversity on the other hand, more specifically the regulations referred to in article 16.1.1, first paragraph, 2°, 3°, 4°, 7°, 14°, 15° and 16° of the Environmental Enforcement Decree. Finally, it should be noted that, in addition to cases relating to the manure decree (code 63O), cases with code "63I - Fertilisers" were also selected; the latter were also included because there is a real chance that some of the cases registered by the public prosecutor's office with code 63I are in fact infringements that are followed up regionally. While the deliberate choice to make a fairly wide selection may have led to a number of cases being wrongly counted in this contribution to the environmental enforcement report, it is also the case that there is no specific indictment code for other infringements that may concern both federal and regional matters (for example, infringements relating to certain product standards).

- ▶ Air/water/soil/noise (emissions):
 - 64A - Air and water pollution
 - 64B - Carbon oxide (CO)
 - 64C - Noise nuisance, decibels in urban environment (R.D. 24/02/1977)
 - 64G - Illegal water extraction
 - 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 code of those selected charges.

Cases that have not yet reached the public prosecutor's office in their entirety at the time of data extraction will not be taken into account. This concerns in particular the 'simplified official reports on listing'⁴², the 'autonomous police investigations still in progress', the 'simplified autonomous police investigations' and the 'autonomous police investigations into unknown perpetrators'. In most public prosecutor's offices, the simplified official reports drawn up by the police forces are not recorded in the system. As such, they were not taken into account in the following figures (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 prosecutor's 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.

It was also requested that a distinction be made between priority official reports⁴³ and non-priority official reports, in the same way as for the survey of the supervisory bodies, in order to be able to make an analysis of the implementation of the 'Priority memorandum on the prosecution policy for environmental law in the Flemish Region 2013'. However, it was indicated that responding to this question presupposes the creation of specific codes involving technical adaptations and new registration guidelines. To date, the database of the Board of Procurators General does not allow a distinction to be made between priority and non-priority cases within the selected cases. However, it was indicated that a solution was being sought.

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 prosecutor's offices (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's office 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

⁴² A simplified official report means that the most important data of certain minor breaches of the law are recorded on an electronic medium. The police only performs superficial acts of investigation or missing persons announcements. This reduces the number of unnecessary items entering the public prosecutor's office.

⁴³ 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'.

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, consider 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, bear in mind that some of the decisions in the East Flanders departments/public prosecutor's office were taken by magistrates attached to the current Ghent department of the public prosecutor's office in East Flanders.

Within the jurisdiction of Antwerp, the case distribution regulation of the Antwerp Court of First Instance was established by Royal Decree of 16 February 2016 and entered into force on 1 March 2016. From that date, the Antwerp division has exclusive jurisdiction over all criminal cases of the district with regard to the environment and urban planning and without the aforementioned distinction. When reviewing the table on case progress, it should therefore be noted that the magistrates of the Antwerp division are responsible for decisions taken in the other divisions of the district of Antwerp.

Since 2017, cases relating to the environment and urban planning in the district of Limburg have also been centralised in the Hasselt division. So also when reviewing this table on case progress, take into account that the magistrates of the Hasselt division are responsible for the decisions taken in the Tongeren division of the district of Limburg.

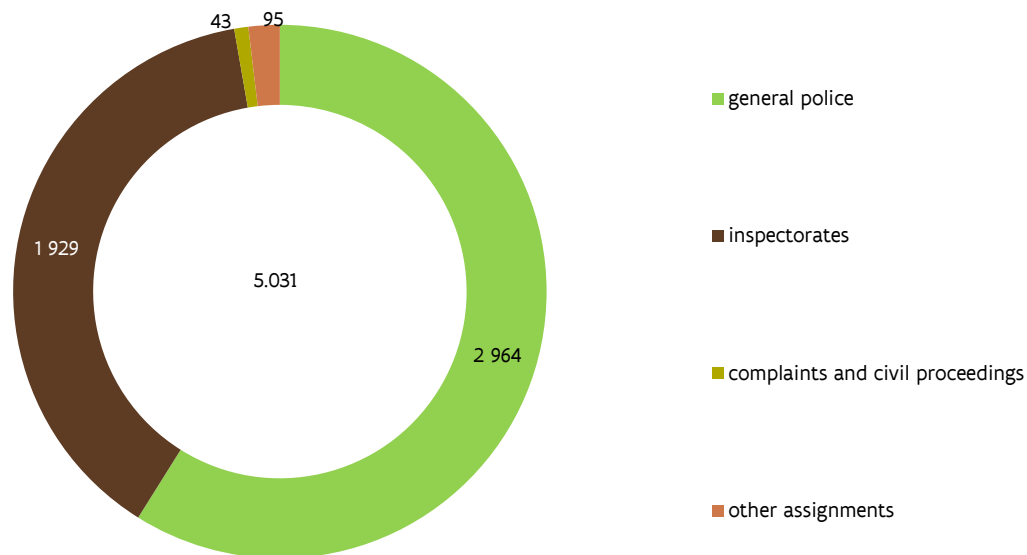
The unit of measure in the tables is always equal to one case. Each case corresponds to one unique reference number. A case may, of course, concern several suspects and/or several crimes. A relatively large number of cases are referred to another public prosecutor for territorial reasons. Since an indication 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 2017. 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. 8 January 2018) of the cases received by the public prosecutor's offices in 2017, 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 8 January 2018, it is important that data regarding case progress is interpreted with care. The data and percentages in this respect only refer to the situation on 8 January 2018 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 Inflow

The following graph shows the number of 'Environmental Enforcement' cases recorded by the criminal divisions of the public prosecutor's offices in the Flemish Region in 2017, per reporting authority, subdivided into four different categories, namely general police; inspectorates; complaints and civil proceedings; and other cases⁴⁴

⁴⁴ The cases registered with the public prosecutor's office of the police courts are not included in the reported figures.



Graph 12 The number of 'environmental enforcement' cases recorded by the criminal divisions of the public prosecutor's offices in the Flemish Region in 2017 per reporting authority - Source: database of the Board of Procurators General

In total, the public prosecutor's offices received 5,031 cases relating to the environment in 2017, of which 58.92% - or 2,964 cases - came from the general police and 38.34% - or 1,929 cases - came from the inspectorates. The section on the general police includes both the Local and the federal police services. However, the inspectorates are the administrative services with limited reporting powers, such as the regional environmental administrations (supervisors). A small proportion of the total number of cases received, namely almost 1.89% or 95 cases, were 'other cases'. These are cases referred from other public prosecutor's offices and courts, also from other sections of the same public prosecutor's office, from foreign public prosecutor's offices/courts and from the courts of the same judicial district that give rise to the creation of a new case. This category is also a residual category for all cases that could not be classified in any of the other three categories. The cases received from the municipal supervisors and the supervisors of the inter-municipal associations also fall under this category. In addition, 43 cases - or 0.85% - related to complaints and civil proceedings. These are complaints from private individuals, as well as complaints from bailiffs or from private organisations and civil parties.

More than half of the cases received by the public prosecutor's offices in 2017 were drawn up by the general police. As already mentioned in chapter 2, the general police drew up 12,632 official reports on the environment in 2017. This number not only includes the initial official reports but also the simplified reports, so this may explain the difference with the number of cases received by the public prosecutor's offices in 2017. It should be noted that no distinction can be made here between official reports drawn up by the local police in their general reporting capacity on the one hand and official reports drawn up by local police supervisors on the other.

On the basis of data in the Environmental Enforcement Report 2016 and the Environmental Enforcement Report 2015, the following table compares the number of Environmental Enforcement cases recorded by the criminal divisions of the public prosecutor's offices in the Flemish Region per reporting authority in 2017, 2016 and 2015.

	2017		2016		2015	
	n	%	n	%	n	%
general police	2,964	59.92	2,636	57.44	3,014	60.04
inspectories	1,929	38.34	1,782	38.83	1,851	36.87
complaints and civil proceedings	43	0.85	39	0.85	40	0.8
other cases	95	1.89	132	2.88	115	2.29
TOTAL	5,031	100	4,589	100	5,020	100

Table 36 The number of 'environmental enforcement' cases recorded by the criminal divisions of the public prosecutor's offices in the Flemish Region in 2017, 2016 and 2015 per reporting authority

Table 36 shows that the number of cases recorded by the criminal divisions of the public prosecutor's offices in the Flemish Region in 2017 is back in line with the number of cases recorded in 2015, after a 10% dip in 2016. This increase compared to 2016 can mainly be attributed to the increase in absolute numbers in the number of cases drawn up by the general police and the inspection services. The share of these cases in the total number of registered cases remained more or less the same.

In 2003, a technical working group was set up within the Prosecution Policy Commission⁴⁵ with the aim of improving the recognisability of the cases submitted by the environmental services of the Flemish Region to the public prosecutor's offices. The only code that was foreseen at the time within the environmental services of the Flemish Region was M2. However, it was decided to use, as from 1 January 2005, specific codes within the reference numbers provided by the environmental services to the public prosecutor's offices. The following codes were assigned:

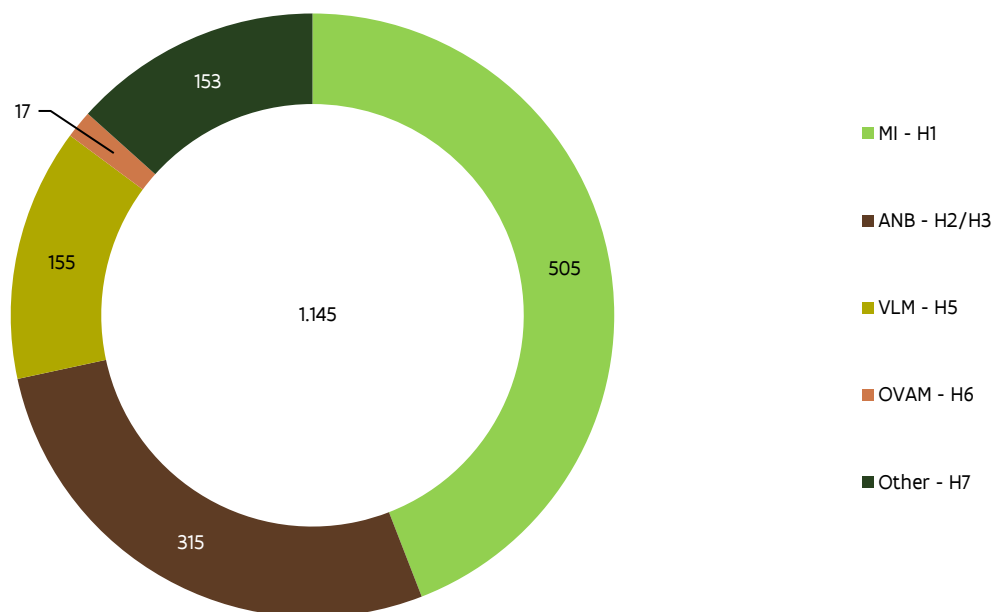
- ▶ H1: Department of Environment and Spatial Development - Enforcement Division - Environmental Inspectorate (MI)
- ▶ H2: ANB (Agency for Nature and Forests)⁴⁶
- ▶ H4: Water – VMM
- ▶ H5: Manure Bank - VLM
- ▶ H6: OVAM
- ▶ H7: other⁴⁷

The use of these specific reference numbers made it possible to produce the following graph in which a further subdivision is made of the 'Environmental Enforcement' cases recorded by the criminal divisions of the public prosecutor's offices in the Flemish Region in 2017 per Flemish environmental enforcement agency. This clearly shows how many cases were delivered per Flemish environmental service as reporting authority.

⁴⁵ The Prosecution Policy Commission is the predecessor of the VHRM, and its objective was to be a working platform on environment and spatial planning at the regional level, where priorities were set and agreements were made between the official level and the public prosecutor's offices. However, unlike the VHRM, the Prosecution Policy Committee did not have a legally established framework.

⁴⁶ Until 2008, the codes H2/H3 were used by the legal predecessors of the ANB (department for Forest and Green, and Nature respectively). Since then, the ANB has only used the code H2.

⁴⁷ H7 consists mainly of official reports from the 'Roads and Traffic Agency' and the 'Waterways and Marine Affairs Agency'. Since there was a chance that these services would be modified without a clear idea of the exact nature of the change, it was decided to allow both to use the code H7. The 'Roads and Traffic Agency' would no longer make use of the code 'WG' that was previously reserved for them. *[The Waterways and Maritime Affairs Agency is a term used prior to the Better Administrative Policy. These are now the following agencies: Waterwegen en Zeekanaal (Waterways and Sea Canal), De Scheepvaart NV, Maritime Services and Coast.]*



Graph 13 The number of 'environmental enforcement' cases coming from the Flemish environmental services as recorded by the criminal divisions of the public prosecutor's offices in the Flemish Region in 2017 - Source: database of the Board of Procurators General

In total, 1,145 cases that originated from the Flemish inspection services and that used the codes were recorded by the criminal divisions of the public prosecutor's offices in the Flemish Region in 2017. The majority (44.10%) of these cases originate from the Enforcement Division - Environmental Inspectorate. The ANB also represents a considerable share of the total number of cases originating from the Flemish inspection services, namely 27.51%. OVAM and VLM are responsible for 1.48% and 13.54% respectively.

In comparison with the chapter 'Evaluation of the official report instrument', a number of differences can be noted between the number of official reports drawn up and reported by the regional enforcement bodies and the number received by the criminal divisions of the public prosecutor's offices of the Flemish Region. For example, the ANB indicated that 512 initial official reports were drawn up in 2017, even though the public prosecutor's offices only received 315 in 2017. This is explained by the fact that this agency also draws up official reports that are handled by police prosecutors. The number reported by the Enforcement Division - Environmental Inspectorate and the VLM, 504 and 154 respectively, was almost equal to the number received by the public prosecutor's offices, namely 505 and 155 respectively in 2017. The other regional regulatory bodies indicated that they drew up a total of 251 official reports in 2017, whereas the public prosecutor's offices received only 153 cases categorised as 'other'. The figures from the public prosecutor's offices may be an underestimation, as not all Flemish environmental administrations seem to be aware that they can use a specific code. As a result, some cases are not identified correctly in the figures. For this reason, the VHRM once again recommends that the various environmental administrations use these codes consistently to ensure correct data collection and reporting. In its 2018 newsletter, the VHRM reminded the enforcement bodies of the agreement regarding these codes.

On the basis of data in the Environmental Enforcement Report 2016 and the Environmental Enforcement Report 2015, the following table compares the number of 'Environmental Enforcement' cases originating from the Flemish environmental services as recorded by the criminal divisions of the public prosecutor's offices in the Flemish Region in 2017, 2016 and 2015.

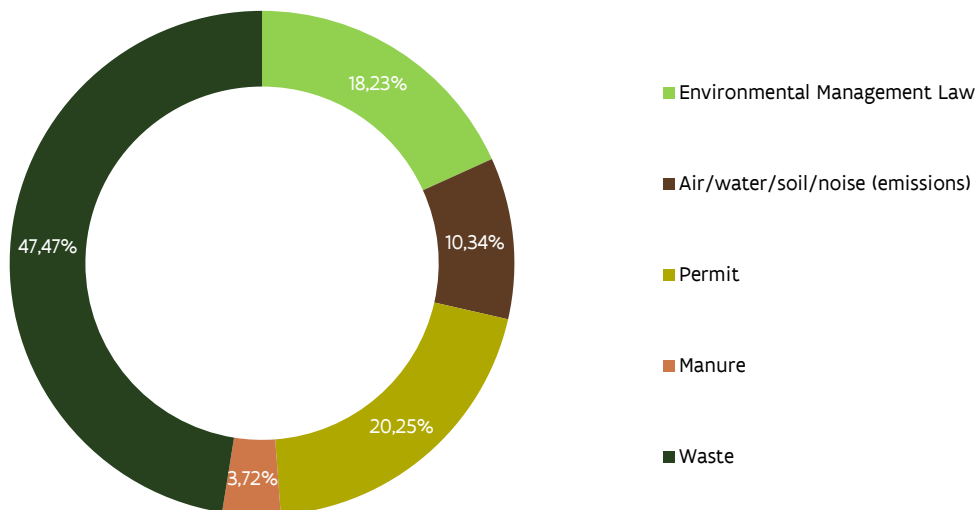
	2017		2016		2015	
	n	%	n	%	n	%
MI - H1	505	44.1	497	40.28	527	38.22
ANB - H2/H3	315	27.51	368	29.82	552	40.03
VMM - H4	-	-	-	-	1	0.07
VLM - H5	155	13.54	149	12.07	179	12.98
OVAM - H6	17	1.48	26	2.11	37	2.68
Other - H7	153	13.36	194	15.72	83	6.02
TOTAL	1,145	100	1,234	100	1,379	100

Table 37 The number of 'environmental enforcement' cases coming from the Flemish environmental services as recorded by the criminal divisions of the public prosecutor's offices in the Flemish Region in 2017, 2016 2017 - Source: database of the Board of Procurators General

The number of cases received by the public prosecutor's offices from the various Flemish environmental services in 2017 decreased in recent years. Compared to 2016, the number of cases decreased by 7% in 2017; this is a decrease of 17% compared to 2015. This decrease can mainly be attributed to the decrease in the number of cases originating from ANB.

An overview has already been provided of the various indictment codes used to record Environmental Enforcement cases. Once again, this allows us to provide an overview for 2017 in the following graphs and tables of the proportion of each indictment code in the total number of 'Environmental Enforcement' cases recorded by the criminal divisions of the public prosecutor's offices in the Flemish Region in 2017.

Graph 14 shows the percentages of the number of cases recorded with the indictment codes for waste, manure, permit, air/water/soil/noise (emissions), and environmental management law in relation to the total number of cases recorded with one of these indictment codes in 2017, namely 5,031 cases.



Graph 14 The percentage share of 'environmental enforcement' cases recorded by the criminal divisions of the public prosecutor's offices in the Flemish Region in 2017 per main indictment code - Source: database of the Board of Procurators General

In more than 47% of the total number of 'Environmental Enforcement' cases recorded by the criminal departments of the public prosecutors of the Flemish Region in 2017, the main indictment code related to the waste theme. This concerned 2,388 cases. Cases connected to environmental management law and emissions represented around 18% and 10% respectively of the total number of cases in 2017, i.e. 917 and 520 cases respectively. In addition, 1,019 cases, or more than 20%, were related to permits, and 187 cases, representing just under than 4% of the total number of 'Environmental Enforcement' cases were related to manure.

The following table not only makes a further subdivision of the main indictment codes for environmental management law, emissions, permits, manure and waste, but also compares 2017, 2016 and 2015 based on the data from the Environmental Enforcement Report 2016 and the Environmental Enforcement Report 2015.

		2017		2016	2015
			%	N	n
Environmental management law	63A - Hunting	89	1.77	88	118
	63B - Fishing	271	5.39	189	296
	63M - Forest decree	104	2.07	125	97
	63N - Protected species of animals, plants and ivory (Washington Convention, 9 March 1973)	262	5.21	94	98
	64J - Flemish decree on nature conservation and the natural environment (21 October 1997)	191	3.8	172	250
	Total for section	917	18.23	668	859
Air/water/soil/noise (emissions)	64A - Air and water pollution	257	5.11	148	194
	64B - Carbon monoxide (CO)	6	0.12	4	4
	64C - Noise standards in the urban environment (Royal Decree of 24 February 1977)	75	1.49	138	177
	64G - Illegal water extraction	7	0.14	1	-
	64M - Surface water pollution	131	2.6	152	168
	64N - Groundwater pollution	44	0.87	63	68
	Total for section	520	10.34	506	611
Permit	64D - Commodo - incommodo (environmental permit)	100	1.99	219	138
	64H - Operation of an establishment without a permit	176	3.5	138	222
	64I - Non-compliance with Vlarems legislation	743	14.77	667	712
	Total for section	1,019	20.25	1,024	1,072
Manure	63I - Fertilizers	60	1.19	42	49
	63O - Manure decree	127	2.52	136	165
	Total for section	187	3.72	178	214
Waste	64E - Unauthorised dumping	1,752	34.82	1,621	1,740
	64F - Waste management	576	11.45	534	466
	64L - Import and transit of waste (Act of 12 May 2011)	60	1.19	58	58
	Total for section	2,388	47.47	2,213	2,264
TOTAL		5,031	100	4,589	5,020

Table 38 The number of 'environmental enforcement' cases recorded by the criminal divisions of the public prosecutor's offices in the Flemish Region in 2017, 2016 and 2015 per main indictment code - Source: database of the Board of Procurators General

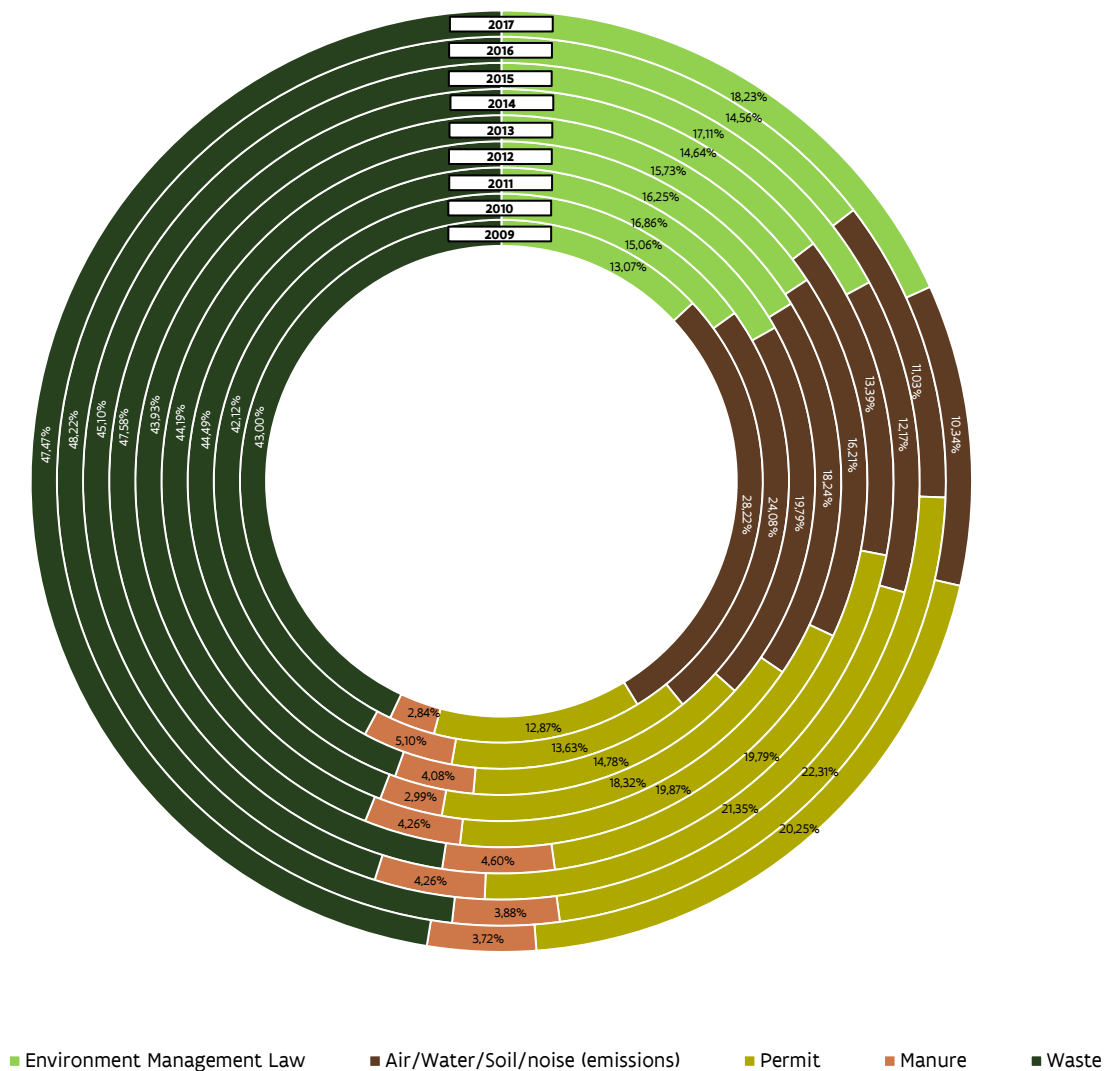
As already mentioned, the largest share (more than 47%) of 'Environmental Enforcement' cases recorded by the criminal divisions of the public prosecutor's offices of the Flemish Region concerned waste in 2017, as in

previous years. Table 38 shows that, within the waste theme, most cases were recorded under indictment code 64E. These 1,752 cases were all related to illegal dumping. The 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 prosecutor's offices in 2017. Nearly 35% of all cases in 2017 related to illegal dumping. This trend was also visible in the Environmental Enforcement Report 2016 and the Environmental Enforcement Report 2015, when approximately 35% of the total number of cases also related to illegal dumping.

In 2015, as well as in 2016 and 2017, cases with indictment codes 63I 'Fertilizers' and 63O 'Manure Decree' accounted for only a small proportion of the total number of 'Environmental Enforcement' cases recorded by the criminal divisions of the public prosecutor's offices in the Flemish Region, i.e. approximately 4% each time. This could be explained by the fact that the Flemish Land Agency is authorised to issue administrative fines for some of the violations under the Manure Decree since 2006 (see below).

The table also shows a decline of 46% in the absolute number of cases relating to noise standards in an urban environment (indictment code 64C) in 2017 compared to 2016. This downward trend has continued since 2013. The percentage of these cases compared to 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 the urban areas. This percentage was 4% in 2014, 3.5% in 2015, and it fell to 3% in 2016 and a mere 1.5% in 2017. This decline could possibly be explained by the so-called GAS rules in municipalities and cities which often include noise nuisance, or the difficulties experienced by reporting officers when establishing crimes related to the new noise regulations. The purely technical explanation for the decrease can be found in the fact that these findings are in many cases recorded as violations of VLAREM II, as opposed to previously, when a separate code was foreseen for infringements of the now abolished 1977 Royal Decree. A number of findings will therefore be included in a more comprehensive crime code.

In addition to a comparison of the absolute figures, it is also possible to make a percentage comparison of the number of 'Environmental Enforcement' cases recorded by the criminal divisions of the public prosecutor's offices in the Flemish Region, per main indictment codes in 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016 and 2017. The following graph gives an overview of this.



Graph 15 The percentage share of environmental enforcement cases recorded by the criminal divisions of the public prosecutor's offices in the Flemish Region per main indictment code in 2009 to 2017 - Source: College of Procurators General database - statistical analysts

Graph 15 shows that since the Environmental Enforcement Decree came into force in 2009, more than 40% of the total number of 'Environmental Enforcement' cases recorded by the criminal divisions of the public prosecutor's offices in the Flemish Region related to waste. The constant decrease of the percentage share of the cases related to air/water/soil/noise (emissions) is a trend that can be shown graphically.

4.1.2 Progress state

In addition to the influx of 'Environmental Enforcement' cases, it was once again possible to obtain figures for this environmental enforcement report on the progress state of Environmental Enforcement cases for the study period. However, it should be recalled that the data extraction dates from 8 January 2018. 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 following figures give a somewhat distorted picture. Nevertheless, an effort will be made to describe a number of trends.

The classification is based on the following states of progress:

PRELIMINARY EXAMINATION

The cases that were still in preliminary investigation on 8 January 2018.

WANTED PERPETRATOR

This heading includes cases in which a suspect was reported as wanted on 8 January 2018. As long as the suspect is not found, this progress state will continue to apply.

WITHOUT FURTHER ACTION/DISMISSAL

Cases without further action or dismissals are provisionally not prosecuted and the preliminary investigation is terminated. The decision to take no further action is in principle always provisional. As long as the criminal proceedings do not lapse, the case may be reopened.

REFERRAL CASES

This section consists of the cases that were referred on 8 January 2018 to another public prosecutor's office or other (judicial) bodies. Insofar as they do not return to the initial public prosecutor's office, the referred cases remain here in this progress state. They can therefore be regarded as closed for the initial public prosecutor's office. They are reopened under a different reference number at the receiving public prosecutor's office.

PRAETORIAN PROBATION

This heading covers cases which, on 8 January 2018, have not (yet) been the subject of criminal proceedings, provided that certain measures imposed by the public prosecutor's office have been complied with.

MUNICIPAL ADMINISTRATIVE SANCTION

This heading covers cases that were transferred to a public administration on 8 January 2018 with a view to a possible municipal administrative sanction.

NON-MUNICIPAL ADMINISTRATIVE SANCTION

This heading covers cases that were transferred to a public administration⁴⁸ on 8 January 2018 for a possible non-municipal administrative sanction.

AMICABLE SETTLEMENT

The amicable settlement category includes cases in which an amicable settlement was proposed, cases in which an amicable settlement has not yet been paid (in full), cases which were concluded by the payment of the

⁴⁸ In the context of the Environmental Enforcement Decree and the Manure Decree, these are the regional sanctioning entity and the VLM Manure Bank respectively.

amicable settlement and in which the criminal proceedings lapse and finally cases in which the amicable settlement was refused but which have not yet moved to the next progress state.

MEDIATION IN CRIMINAL CASES

The mediation in criminal cases section consists of cases in which the Public Prosecutor's Office has decided to propose a procedure for mediation in criminal cases to the parties involved. This category includes cases for which a mediation in criminal cases was proposed and for which a decision still has to be made, cases which were concluded as a result of successful mediation of criminal cases and for which the criminal proceedings lapse, and finally cases for which the perpetrator did not meet the required conditions but which have not yet moved to the next progress state.

INVESTIGATION

The investigation section consists of cases that have been the subject of judicial investigation and that have not yet been brought before the court in chambers for legal proceedings.

COURT IN 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 remain in this progress state.

SUMMONS & FURTHER

This section consists of the cases where a summons or subsequent decision was taken. These are cases in which a summons, a determination before the criminal court, a judgement, an objection, an appeal, etc. occur.

UNKNOWN/ERROR

This section 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'.

Previous environmental enforcement reports also reported on the progress state of the 'Court in 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 prosecutor's offices.

The following table gives an overview of the latest progress states as of 8 January 2018 for 'Environmental Enforcement' cases recorded by the criminal divisions of the public prosecutor's offices in the Flemish Region in 2017. Both the total cases in Flanders are shown as well as the cases per public prosecutor's office. In addition, the percentage share of the various progress states in the total number of 'Environmental Enforcement' cases is shown for 2017, 2016 and 2015, so that a comparison can be made.

When reading table 39, the existing public prosecutor partnerships must also be considered (see 4.1).

	Preliminary investigation		Wanted perpetrator		without further action		referral case		praetorian probation		municipal administrative sanction		non-municipal administrative sanction		administrative sanction (not specified)		amicable settlement		mediation in CC		investigation		court in chambers		summons & further		Referral to chief of police		unknown/error		TOTAL
	n	%	n	%	n	%	n	%	n	%	n	%	n	%	n	%	n	%	n	%	n	%	n	%	n	%	n	%	n	%	n
DISTRICT OF ANTWERP	300	28.76	7	0.67	319	30.6	28	2.68	14	1.34	6	0.58	264	25.31	25	2.4	33	3.16	.	.	11	1.05			31	2.97	3	0.29	2	0.19	1043
Antwerp Public Prosecutor's Office – Antwerp division	222	35.46	2	0.32	131	20.9	6	0.96	9	1.44	4	0.64	186	29.71	.	.	29	4.63	.	.	11	1.76			23	3.67	3	0.48	.	.	626
Antwerp Public Prosecutor's Office – Mechelen division	24	30	2	2.5	24	30	5	6.25	1	1.25	1	1.25	19	23.75	.	.	2	2.5	.	.	.	.			2	2.5	.	.	.	.	80
Antwerp Public Prosecutor's Office – Turnhout division	54	16.02	3	0.89	164	48.7	17	5.04	4	1.19	1	0.3	59	17.51	25	7.42	2	0.59	.	.	.	.			6	1.78	.	.	2	0.59	337
DISTRICT OF LIMBURG	119	21.25	.	.	154	27.5	13	2.32	24	4.29	20	3.57	190	33.93	.	.	21	3.75	.	.	4	0.71			14	2.5	.	.	1	0.18	560
Limburg Public Prosecutor's Office – Hasselt division	45	16.92	.	.	87	32.7	4	1.5	14	5.26	1	0.38	91	34.21	.	.	13	4.89	.	.	4	1.5			6	2.26	.	.	1	0.38	266
Limburg Public Prosecutor's Office – Tongeren division	74	25.17	.	.	67	22.8	9	3.06	10	3.4	19	6.46	99	33.67	.	.	8	2.72	.	.	.	.			8	2.72	.	.	.	.	294
DISTRICT OF BRUSSELS	366	59.8	1	0.16	109	17.8	9	1.47	15	2.45	.	.	92	15.03	.	.	13	2.12	.	.	.	.			7	1.14	.	.	.	.	612
Halle-Vilvoorde Public Prosecutor's Office	366	59.8	1	0.16	109	17.8	9	1.47	15	2.45	.	.	92	15.03	.	.	13	2.12	.	.	.	.			7	1.14	.	.	.	.	612
DISTRICT OF LEUVEN	59	21.93	.	.	74	27.5	4	1.49	.	.	.	.	82	30.48	.	.	39	14.5	.	.	.	.			11	4.09	.	.	.	.	269
DISTRICT OF EAST FLANDERS	272	19.2	36	2.54	414	29.2	32	2.26	5	0.35	1	0.07	631	44.53	.	.	2	0.14	.	.	3	0.21			21	1.48	.	.	.	.	1417
East Flanders Public Prosecutor's Office – Ghent division	129	20.74	11	1.77	186	29.9	15	2.41	.	.	1	0.16	265	42.6	.	.	1	0.16	.	.	.	.			14	2.25	.	.	.	.	622
East Flanders Public Prosecutor's Office – Dendermonde division	100	17.09	23	3.93	158	27	16	2.74	3	0.51	.	.	278	47.52	.	.	.	.	.	.	2	0.34			5	0.85	.	.	.	.	585
East Flanders Public Prosecutor's Office – Oudenaarde division	43	20.48	2	0.95	70	33.3	1	0.48	2	0.95	.	.	88	41.9	.	.	1	0.48	.	.	1	0.48			2	0.95	.	.	.	.	210
DISTRICT OF WEST FLANDERS	248	21.95	1	0.09	224	19.8	30	2.65	5	0.44	26	2.3	566	50.09	.	.	5	0.44	1	0.09	1	0.09			23	2.04	.	.	.	.	1130
West Flanders Public Prosecutor's Office – Bruges division	115	22.24	1	0.19	78	15.1	13	2.51	3	0.58	1	0.19	287	55.51	.	.	3	0.58	.	.	.	.			16	3.09	.	.	.	.	517
West Flanders Public Prosecutor's Office – Kortrijk division	65	22.41	.	.	67	23.1	9	3.1	1	0.34	18	6.21	124	42.76	.	.	.	.	.	.	1	0.34			5	1.72	.	.	.	.	290
West Flanders Public Prosecutor's Office – Ypres division	40	20.41	.	.	51	26	3	1.53	1	0.51	6	3.06	92	46.94	.	.	1	0.51	1	0.51	.	.			1	0.51	.	.	.	.	196
West Flanders Public Prosecutor's Office – Veurne division	28	22.05	.	.	28	22.1	5	3.94	.	.	1	0.79	63	49.61	.	.	1	0.79	.	.	.	.			1	0.79	.	.	.	.	127
Flanders 2017	1364	27.11	45	0.89	1294	25.7	116	2.31	63	1.25	53	1.05	1,825	36.28	25	0.5	113	2.25	1	0.02	19	0.38			107	2.13	3	0.06	3	0.06	5,031
Flanders 2016	1,261	27.48	63	1.37	1,089	23.7	114	2.48	46	1.00	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	27.3	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

Table 39 The number of 'Environmental Enforcement' cases recorded by the criminal public prosecution offices of the Flemish Region in 2017, whether or not by transfer to a parent case, per judicial district

The data in table 39 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 in the preliminary investigation stage on 8 January 2018. This is in line with 2016 and 2015.

Compared to 2016, a slight increase can be observed of the percentage share of the number of cases that had already been dismissed without further action on the extraction date (25.7%). In 2016, this percentage was 23.7% and in 2015 it was 27.3%. Previous environmental enforcement reports show that in 2014, 55% of the total number of Environmental Enforcement cases had been dismissed on the extraction date. However, this decline can be explained by the fact that 'wanted perpetrator', 'praetorian probation', 'municipal administrative sanction' and 'non-municipal administrative sanction' were included in the 'no further action' progress state in reports prior to 2015, while these kinds of decisions are presented as separate progress states from 2015. 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 3,280 cases would have been dismissed without further action in 2017 on the extraction date. This is slightly higher than the number in 2016 and 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 recorded cases. More than 65% of cases in 2017 had in fact already been dismissed without further action on the extraction date.⁴⁹ The next section, 'Grounds for dismissal', will go into more detail about the reasons for these 'no further actions'.

The number of cases that were referred as of the extraction date (116 cases) is almost equal to the number in 2016 (114 cases), but has fallen sharply compared to 2015 (215 cases) and 2014 (409 cases). These are cases that were referred to another public prosecutor's office or another (judicial) body. The decrease in the number of 'referred' decisions may be partly explained by the partnerships between public prosecutor's offices and the merger of public prosecutor's offices, as a result of which internal (previously external) case movements are no longer recorded as 'referred'. In certain divisions, this progress state was also assigned to cases that were submitted to municipalities or the regional sanctioning entity with the intention of imposing an administrative sanction.

There was also a further decline in amicable settlements in 2017 compared to 2016, 2015 and 2014. The number of cases in which an amicable settlement had already been proposed on the extraction date was 2.25% of the total number of 'Environmental Enforcement' cases in 2017, compared to 2.72% in 2016, 4.08% in 2015 and 5.05% in 2014.

Both in absolute figures and as a percentage share of the total number of cases, a slight increase can be observed compared to last year for cases that had already been subpoenaed as of the extraction date. On 8 January 2018 there were 107 cases, i.e. 2.13% 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. On 10 January 2016 there were 123 cases, i.e. 2.45% of the total number of Environmental Enforcement cases. For the year 2014, this represented 2.1% of the number of cases. Overall, this percentage therefore remains between 2% and 3%.

As already mentioned, 'wanted perpetrator', 'praetorian probation', 'municipal administrative sanction' and 'non-municipal administrative sanction' are 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'.

⁴⁹ If the categories are added up like the 2014 reporting.

One of the reasons why specific reference was made in the environmental enforcement reports to these grounds for dismissal is the fact that the public prosecutor's offices have the opportunity to refer cases to the regional sanctioning entity with a view to imposing an administrative fine. This information is now already shown in table 40 under the progress state 'non-municipal administrative sanction'. In 2017, 1,825 cases were transferred to the competent public authority with a view to imposing an administrative sanction, which means that no less than 36% of the total number of 'Environmental Enforcement' cases recorded on the extraction date had already been submitted for the imposition of an administrative sanction by the regional sanctioning entity.

The following table shows these figures since the Environmental Enforcement Decree came into force in 2009. For 2017, 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' and 'administrative sanction' progress state on the date of the extraction are added together. In fact, 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	2017
number of cases dismissed with a view to imposing an administrative fine (up to 2014)/with progress states 'non-municipal administrative sanction', 'municipal administrative sanction' and 'administrative sanction (not specified)' (from 2015)	299	975	1,536	1,384	1,248	1,128	1,580	1,736	1,903
% share of cases dismissed with a view to imposing an administrative fine in relation to the number of recorded cases (up to 2014)/with progress states 'non-municipal administrative sanction', 'municipal administrative sanction' and 'administrative sanction (not specified)' (from 2015)	9.89	15.31	25.6	27.56	27	22.34	31.47%	37.83%	37.83%

Table 40 Cases dismissed with a view to imposing an administrative fine (t.e.m. 2014)/with progress states 'non-municipal administrative sanction', 'municipal administrative sanction' and 'administrative sanction (not specified)' (2016) - overview since the entry into force of the Environmental Enforcement Decree

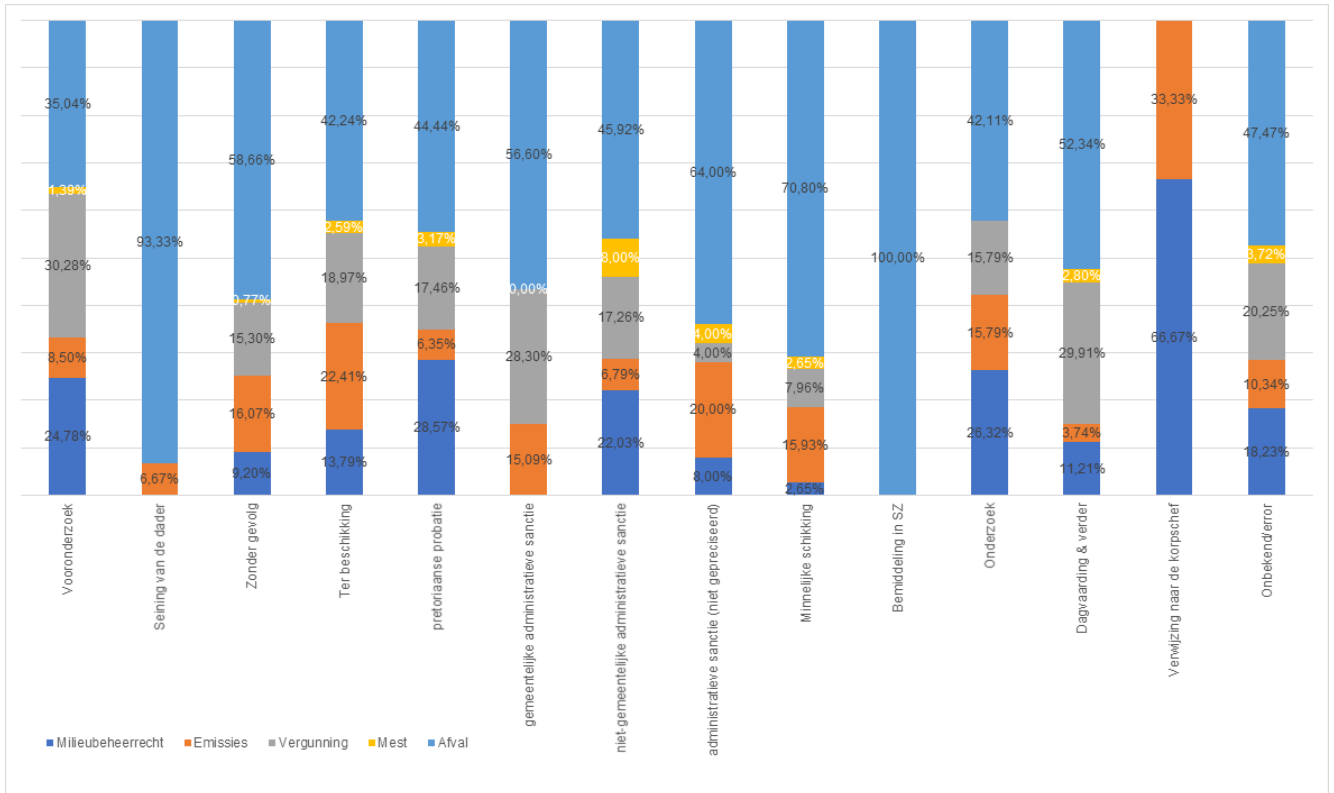
Table 40 shows that 1,903 cases, or 37.83% of the total number of recorded 'Environmental Enforcement' cases, had already been submitted to the competent authority on the extraction date for the imposition of an administrative sanction. This includes the municipal administrative sanctions and the alternative administrative fines of the regional sanctioning entity. This is an increase in absolute figures compared to 2016. In fact, 1,736 cases were dismissed in 2016 with a view to imposing an administrative fine ⁵⁰.

From the 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 from 2015. In terms of percentage, this decline was also noticeable in 2014, before increasing again from 2015. In fact, more than 1/3 of the total number of 'Environmental Enforcement' cases as recorded on the extraction date in 2016 and 2017 were already transferred to the authorised government body with a view to imposing an administrative sanction, the highest percentage since the Environmental Enforcement Decree came into force.

The following graph shows an overview per progress state of the proportion of types of indictment codes (waste, manure, permit, emissions and environmental management) in 2017. The cases involving waste, manure,

⁵⁰ This number is an underestimation, referring to the finding on the page above that certain divisions use the 'make available' progress state to forward cases to the regional sanctioning entity/the municipality.

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



Graph 16 Progress states as of 8 January 2018 of the 'Environmental Enforcement' cases recorded by the criminal prosecution offices in the Flemish Region in 2017 broken down by indictment type (waste, manure, permit, emissions and environmental management) - Source: database of the Board of Procurators General - statistical analysts

More than 1/3 of the 'Environmental Enforcement' cases in the preliminary investigation progress state were related to waste. The majority of cases concerned waste in virtually every progress state. This can of course be explained by the fact that no less than 47% of the total number of recorded 'Environmental Enforcement' cases also concerned waste.

Table 41 shows a percentage comparison between the data of 2017, 2016 and 2015 per indictment code and the progress state of the cases in the indictment codes on the extraction date. The progress states (preliminary investigation, no further action, referral, amicable settlement, mediation in criminal cases, investigation, summons and further, unknown/error) were measured against a reference value set at one hundred, which is a certain indictment code type. To compare 2017 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.

	preliminary investigation			without further action*			referral case			amicable settlement			mediation in CC			investigation			summons & further			referral to chief of police			unknown/error		
	2017	2016	2015	2017	2016	2015	2017	2016	2015	2017	2016	2015	2017	2016	2015	2017	2016	2015	2017	2016	2015	2017	2016	2015	2017	2016	2015
Environmental management law	36.86%	27.1	21.42	59.00%	63.92	62.17	1.74%	4.04	12.81	0.33%	2.1	2.79	0.00%	0.9	0	0.55%	0	0	1.31%	1.95	0.7	0.00%	/	/	0.22%	0	0.12
Emissions	22.31%	29.64	27.33	67.69%	55.53	58.76	5.00%	5.73	4.58	3.46%	2.96	7.2	0.00%	0.2	0	0.58%	0	0.65	0.77%	5.93	1.47	0.00%	/	/	0.19%	0	0
Permit	40.53%	46.48	52.52	52.99%	46.68	38.99	2.16%	1.66	3.17	0.88%	1.56	2.52	0.00%	0.2	0	0.29%	0	0.09	3.14%	3.42	2.71	0.00%	/	/	0.00%	0	0
Manure	10.16%	18.54	18.22	85.03%	79.21	78.98	1.60%	1.69	1.87	1.60%	0.56	0.93	0.00%	0	0	0.00%	0	0	1.60%	0	0	0.00%	/	/	0.00%	0	0
Waste	20.02%	19.02	21.6	71.73%	72.62	67.98	2.05%	1.72	1.72	3.35%	3.57	4.77	0.04%	0.23	0.22	0.34%	0	0.22	2.35%	2.58	3.49	0.13%	/	/	0.00%	0	0

Table 41 Percentage comparison between the data of 2017, 2016 and 2015 per indictment code and the progress state of the cases in the indictment codes on the extraction date. Dismissed without further action includes wanted perpetrator, dismissed without further action, praetorian probation, municipal administrative sanction (GAS) and non-municipal administrative sanction

Table 41 shows that, in 2017, 2.35% of the total number of cases relating to waste on 8 January 2018 had already been subpoenaed. This is a slight decline compared to 2016 when it was 2.58%. The proportion of cases related to waste without further action dropped in 2017 compared to 2016 but remains above the level of 2015.

With regard to the cases concerning manure in 2017, it can be noted that, as in 2015 and 2016, on 8 January 2018, the majority, i.e. 85%, were dismissed without further action and 1/5 were still in the preliminary investigation phase. On the extraction date in 2017, 1.6% of the cases had been subpoenaed and 1.6% were also in the amicable settlement progress state.

For permit cases, an increase compared to 2016 can be observed in the percentage of cases that were already dismissed without further action on the extraction date in 2017. On the other hand, the proportion of cases still in preliminary investigation on the extraction date, i.e. 40.53%, declined further compared to 2016 and 2015 when this percentage was 46.48% and 52.52% respectively. The number of cases that had already been subpoenaed on the extraction date in 2017 is in line with 2016 and 2015, namely around 3% of the total number of cases relating to permits.

For cases relating to emissions, an amicable settlement had been proposed on the extraction date in 3.46% of the cases. This percentage is slightly higher than in 2016, when it was 2.96%, but still significantly lower than in 2015 when an amicable settlement was proposed in 7.2% of cases. In addition, many cases (67.69%) had already been dismissed without further action on the extraction date, as in 2016 (55.53%) and 2015 (58.76%).

We observe for environmental management cases that 59% were dismissed on 8 January 2018 without further action. This is a slight decline compared to 2016 and 2015. The proportion of environmental management cases that had already been subpoenaed on the extraction date in 2017, namely 1.31%, decreased compared to 1.95% in 2016 but remained above 0.7% in 2015.

4.1.3 Grounds for dismissal

In the previous section on the progress state of 'Environmental Enforcement' cases, it was established that, on 8 January 2017, 26% had already been dismissed without further action by the public prosecutor's offices in the Flemish Region. However, for the preparation of this environmental enforcement report, figures were also made available to the Flemish High Enforcement Council for Spatial Planning and Environment that provide further insight into the cases that were dismissed without further action.

Indeed, in cases where no further action has been taken, it is important to consider the grounds for dismissal. The Criminal Procedure Code, article 28 c para. 1, introduced by the Act of 12 March 1998, imposes on the Public Prosecutor the obligation to motivate their decisions. The public prosecutor's offices have a detailed list of grounds for 'no further action' which have been standardised throughout the country and 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.

The following classification was used for these figures:

- ▶ Dismissal for reasons of expediency:
 - limited social impact
 - situation regularised
 - crime of a relational nature

- minor disadvantage
- reasonable term exceeded
- absence of criminal record
- accidental cause
- imbalance between criminal proceedings and social disruption
- victim's attitude
- victim compensation
- insufficient investigation resources
- other priorities
- priority to civil settlement

► Technical dismissal:

- no crime
- insufficient evidence
- limitation
- decease of the perpetrator
- final decision
- ne bis in idem
- perpetrator(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 2017, 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. These cases will therefore no longer be discussed in this section.

The following table shows the type of 'no further action' (dismissal of opportunity and technical dismissal) reported by the various public prosecutor's offices in the Flemish Region with regard to 'Environmental Enforcement' cases that were in the 'without further action' progress state on 8 January 2018.

		Dismissal of a technical nature		Dismissal for reasons of expediency		TOTAL	
		n	%	N	%	N	%
DISTRICT OF ANTWERP	Antwerp Public Prosecutor's Office – Antwerp division	63	48.09	68	51.91	131	100
	Antwerp Public Prosecutor's Office – Mechelen division	12	50	12	50	24	100
	Antwerp Public Prosecutor's Office – Turnhout division	120	73.17	44	26.83	164	100
	Total for section	195	61.13	124	38.87	319	100
DISTRICT OF LIMBURG	Limburg Public Prosecutor's Office – Hasselt division	53	60.92	34	39.08	87	100
	Limburg Public Prosecutor's Office – Tongeren division	43	64.18	24	35.82	67	100
	Total for section	96	62.34	58	37.66	154	100
DISTRICT OF BRUSSELS	Halle-Vilvoorde Public Prosecutor's Office	75	68.81	34	31.19	109	100
	Total for section	75	68.81	34	31.19	109	100
DISTRICT OF LEUVEN	Total for section	44	59.46	30	40.54	74	100
DISTRICT OF EAST FLANDERS	East Flanders Public Prosecutor's Office – Ghent division	145	77.96	41	22.04	186	100
	East Flanders Public Prosecutor's Office – Dendermonde division	136	86.08	22	13.92	158	100
	East Flanders Public Prosecutor's Office – Oudenaarde division	55	78.57	15	21.43	70	100
	Total for section	336	81.16	78	18.84	414	100
DISTRICT OF WEST FLANDERS	West Flanders Public Prosecutor's Office – Bruges division	70	89.74	8	10.26	78	100
	West Flanders Public Prosecutor's Office – Kortrijk division	64	95.52	3	4.48	67	100
	West Flanders Public Prosecutor's Office – Ypres division	51	100	.	.	51	100
	West Flanders Public Prosecutor's Office – Veurne division	28	100	.	.	28	100
	Total for section	213	95.09	11	4.91	224	100
TOTAL		959	74.11%	335	25.89%	1294	100%

Table 42 Reasons for dismissing 'Environmental Enforcement' cases, received in 2017, in which no further action was taken on 8 January 2018, 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 shows that 1,294 out of a total of 5,031 'Environmental Enforcement' cases received by public prosecutors on 8 January 2018 had already been dismissed. This corresponds to nearly 26% of the total number of 'Environmental Enforcement' cases.

Of the 1,294 cases, 25.89% were dismissed for reasons of expediency and 74.11% for technical reasons. Based on the figures in the Environmental Enforcement Report 2016, it can be calculated that, on the extraction date in 2016, 24% of the 1,089 dismissed cases were dismissed without further action for reasons of expediency and 77.13% because of technical reasons. In 2015, 29% of the 1,371 cases dismissed without further action on the

extraction date occurred for reasons of expediency and 71% for technical reasons. In 2014, this ratio was 33% and 67% for the 1,591 cases that were dismissed at the time. The ratio remains similar, but the number of cases dismissed for technical reasons rose slightly but dropped back in 2017. 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.

The following table shows the grounds for dismissal per section of the indictment codes (waste, manure, permit, emissions and environmental management) for 2017. This makes it possible, among other things, to form a picture of which types of cases are dismissed for which reasons.

	Environmental management law		Air/water/soil/noise (emissions)		Permit		Manure		Waste		TOTAL	
	n	%	n	%	n	%	n	%	n	%	n	%
Dismissal of a technical nature	83	69.75	129	62.02	168	84.85	4	40	575	75.76	959	74.11
no crime	14	11.76	22	10.58	33	16.67	.	.	59	7.77	128	9.89
insufficient evidence	37	31.09	60	28.85	104	52.53	3	30	404	53.23	608	46.99
criminal proceedings dropped	.	.	.	.	3	1.52	.	.	3	0.4	6	0.46
limitation	.	.	.	.	3	1.52	.	.	1	0.13	4	0.31
decease of the perpetrator	.	.	.	.	.	.	.	.	2	0.26	2	0.15
inadmissibility of criminal proceedings	.	.	14	6.73	24	12.12	1	10	1	0.13	40	3.09
final decision	.	.	14	6.73	24	12.12	.	.	1	0.13	39	3.01
ne bis in idem	.	.	.	.	.	.	1	10	.	.	1	0.08
perpetrator(s) unknown	32	26.89	33	15.87	4	2.02	.	.	108	14.23	177	13.68
Dismissal for reasons of expediency	36	30.25	79	37.98	30	15.15	6	60	184	24.24	335	25.89
grounds specific to the nature of the facts	6	5.04	24	11.54	12	6.06	.	.	55	7.25	97	7.5
limited social impact	.	.	2	0.96	1	0.51	.	.	10	1.32	13	1
situation regularised	2	1.68	17	8.17	11	5.56	.	.	43	5.67	73	5.64
minor disadvantage	.	.	1	0.48	.	.	.	.	2	0.26	3	0.23
reasonable term exceeded	4	3.36	4	1.92	.	.	.	.	.	.	8	0.62
grounds specific to the person of the perpetrator or of the victim	17	14.29	27	12.98	7	3.54	6	60	86	11.33	143	11.05
absence of criminal record	13	10.92	4	1.92	2	1.01	.	.	18	2.37	37	2.86
accidental cause	1	0.84	19	9.13	2	1.01	3	30	26	3.43	51	3.94
imbalance between criminal proceedings and social disruption	3	2.52	2	0.96	3	1.52	3	30	16	2.11	27	2.09
victim's attitude	.	.	1	0.48	.	.	.	.	1	0.13	2	0.15
victim compensation	.	.	1	0.48	.	.	.	.	25	3.29	26	2.01
Policy	13	10.92	28	13.46	11	5.56	.	.	43	5.67	95	7.34
insufficient investigative capacity	4	3.36	.	.	.	.	.	.	9	1.19	13	1
other priorities	4	3.36	14	6.73	2	1.01	.	.	15	1.98	35	2.7
priority to civil settlement	4	3.36	14	6.73	9	4.55	.	.	19	2.5	46	3.55
priority to the disciplinary processing	1	0.84	.	.	.	.	.	.	.	.	1	0.08
TOTAL	119	100	208	100	198	100	10	100	759	100	1294	100

Table 43 Grounds for dismissing the 'environmental enforcement' cases in which no further action was taken on 8 January 2018, received between 1 January 2017 and 31 December 2017, whether or not by merging with a parent case, per type of indictment code (n & column%) Source: database of the Board of Procurators General - statistical analysts

As mentioned above, 26% of all 'Environmental Enforcement' cases recorded by the criminal prosecution offices in the Flemish Region in 2017, had already been dismissed on the extraction date. This represents more than 1/4 of the total number of cases recorded in 2017. The majority, namely 959 cases, were dismissed for technical reasons. More than 63% of these 959 cases were dismissed because of insufficient evidence; 18.5% because the perpetrators were unknown, and 13.3% because no crime had taken place.

Several grounds can be found for dismissal due to expediency. A ground specific to the nature of the facts may, for example, be the limited social impact of the case, but also, for example, the fact that the situation was regularised, that the disadvantage was insufficient, or because the reasonable period had been exceeded. A total of 97 cases were dismissed in 2017 for reasons peculiar to the nature of the facts, 73 of them because the situation had been regularised. In addition, 143 cases were dismissed on grounds 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 8 January 2018, 95 cases were dismissed for reasons of expediency related to the policy. This may be due to a lack of investigative capacity, or because priority was given to civil proceedings or disciplinary proceedings, or because other priorities were set within the public prosecutor's office. A total of 335, or 6.6% of the total number of 'Environmental Enforcement' cases recorded by the criminal public prosecutors in the Flemish Region in 2017, were already dismissed on the extraction date, on the grounds of expediency.

If we look at the various themes, we can see that 119 cases relating to environmental management law were already dismissed on the extraction date. This represents 13% of the total number of recorded cases concerning environmental management law. In line with the overall ratio, it can be observed that almost 70% were dismissed for technical reasons, mainly because there was insufficient evidence, and 30% for reasons of expediency, mainly for reasons specific to offender or the victim.

With regard to cases relating to emissions, we can see that approximately 62% of the total of 208 dismissed cases were dismissed for technical reasons. More specifically, we can conclude that almost 28% of the cases were dismissed because there was insufficient evidence.

In total, 198 of the 1,019 cases relating to permits were dismissed. This equates to 19.4%. With regard to dismissals in permit cases, the majority, namely 52.53%, were dismissed because there was insufficient evidence. In addition, 15% were dismissed for reasons of expediency.

Of the 10 manure cases already dismissed on the extraction date, 4 of the cases were dismissed for technical reasons. 6 of these cases were dismissed for reasons of expediency.

On the date of extraction, 31.8% of the total number of recorded cases relating to waste had already been dismissed. More than half, i.e. 53.2% of these dismissed cases were closed without further action because there was insufficient evidence.

4.2 EVALUATION OF THE SANCTIONING POLICY PURSUED BY THE REGIONAL SANCTIONING ENTITY

DABM stipulates that the exclusive and alternative administrative fines are imposed by the regional entity designated by the Government of Flanders, namely the regional sanctioning entity. In 2012, in addition to the exclusive and the alternative administrative fine, a new instrument was introduced, namely the administrative transaction. This administrative transaction can be considered as a kind of 'amicable settlement' that the regional sanctioning entity can propose for certain cases (both environmental crimes and environmental offences). Given the role of this body, the regional sanctioning entity was also surveyed about its environmental enforcement activities for the Environmental Enforcement Report 2017.

4.2.1 Processing of environmental crimes

In the context of the processing of environmental crimes by the regional sanctioning entity in 2017, they were asked how many official reports the regional sanctioning entity received between 1 January 2017 and 31 December 2017 and from which public prosecutor's office. This is presented in table 44. A distinction is also made between the number of priority and non-priority official reports. Based on the 'Priority Memorandum on prosecution policy for environmental law in the Flemish Region in 2013', the reporting offices are responsible for applying this classification to their official report. When reviewing the figures, the effect of public prosecutor partnerships should also be taken into account. In order to improve the legibility of the following tables, the number of official reports received by the regional sanctioning entity are shown per partnership insofar as such a partnership exists⁵¹.

		Priority ORs	Non-priority ORs	Total
East Flanders Public Prosecutor's Office		45	702	747
West Flanders Public Prosecutor's Office		50	507	557
Antwerp Public Prosecutor's Office		8	268	276
Limburg Public Prosecutor's Office	Hasselt	9	75	84
	Tongeren	10	83	93
Leuven		3	44	47
Halle-Vilvoorde		16	94	110
Total		141	1,773	1,914

Table 44 Official reports received by the regional sanctioning entity of the public prosecutor's offices in the Flemish Region in 2017

The table shows that the regional sanctioning entity received a total of 1,914 official reports in 2017 from the criminal divisions of the public prosecution offices in the Flemish Region with a view to imposing an alternative administrative fine.⁵² This number is similar to the number of official reports received by the regional sanctioning entity in 2016, when 1,991 official reports were received. Since the entry into force of the Environmental Enforcement Decree in 2009, the number of cases received by the regional sanctioning entity

⁵¹ The following divisions belong to a partnership: the divisions of Dendermonde, Ghent and Oudenaarde; the divisions of Bruges, Ypres, Kortrijk and Veurne; and the divisions of Antwerp, Mechelen and Turnhout.

⁵² This is the number of official reports received by the regional sanctioning entity in 2017. It should be taken into account that some of these official reports were drawn up in 2016 and possibly also in 2015, and the Public Prosecutor decided in 2017 to transfer these cases to the regional sanctioning entity with a view of imposing an administrative fine.

has increased steadily until 2017. In 2009, the regional sanctioning entity 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 subsequently rose sharply in 2010 and 2011, to 1,100 and 1,597 respectively. This figure initially remained quite stable, with 1,545 cases in 2012 and 1,594 cases in 2013, but has continued to increase further since 2014.

The following table not only shows the number of cases received by the regional sanctioning entity from the public prosecutor's offices in 2017, but also the number of 'Environmental Enforcement' cases recorded by the (criminal divisions of the) public prosecutor's offices in the Flemish Region in 2017. This makes it possible to calculate the percentage of cases sent to the regional sanctioning entity by each public prosecutor's office or public prosecutor partnership. It should be noted that not all official reports recorded by public prosecutors in 2017 were also dealt with in 2017. 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 the regional sanctioning entity.

		ORs received by the regional entity of the public prosecutor's offices	Number of 'environmental enforcement' cases registered by the criminal prosecutor's office	% share of the ORs forwarded to the regional entity
East Flanders Public Prosecutor's Office	Dendermonde	747	1,417	52.72%
	Ghent			
	Oudenaarde			
West Flanders Public Prosecutor's Office	Bruges	557	1,130	49.29%
	Ypres			
	Kortrijk			
	Veurne			
Antwerp Public Prosecutor's Office	Antwerp	276	1,043	26.46%
	Mechelen			
	Turnhout			
Limburg Public Prosecutor's Office	Hasselt	177	560	31.96%
	Tongeren			
Leuven		47	269	17.47%
Halle-Vilvoorde		110	612	17.97%
Total		1,914	5,031	38.04%

Table 45 Percentage share of official reports received by the public prosecutor's offices in the Flemish Region in 2017, sent to the regional sanctioning entity

Based on the data, we can conclude that in 2017 the regional sanctioning entity received an average of 38.04% of the total number of 'Environmental Enforcement' cases recorded by the public prosecutor's offices in 2017. The public prosecutor's office in West Flanders recorded a total of 1,130 'Environmental Enforcement' cases in 2017. The regional sanctioning entity received a total of 557 cases via the partnership of the various divisions of the public prosecutor's office in West Flanders. This means that approximately 49.29% of the cases recorded by the public prosecutor's office of West Flanders on the extraction date, 8 January 2018, had already been submitted to the regional sanctioning entity with a view to imposing an alternative administrative fine. This ratio is 52.72% for the public prosecutor's office in East Flanders, 26.46% for the public prosecutor's office in Antwerp, and 31.96% for the public prosecutor's office in Limburg. Table 45 shows a ratio of 17.47% for the public prosecutor's offices in Leuven and 17.97% for Halle-Vilvoorde.

Generally speaking for 2017, the regional sanctioning entity always received at least 1/4 of the total number of 'Environmental Enforcement' cases recorded by public prosecutor's offices with a view to imposing an alternative administrative fine. Only the public prosecutor's offices of Leuven and Halle-Vilvoorde transferred less than 20% of the total number of recorded cases to the regional sanctioning entity. By contrast, the public prosecutors of East and West Flanders transferred approximately half of the recorded cases.

On the basis of previous environmental enforcement reports, these figures are presented per public prosecutor's office since the coming into force of the Environmental Enforcement Decree in the following table⁵³.

		% proportion of the ORs sent to the regional entity in								
		2009	2010	2011	2012	2013	2014	2015	2016	2017
East Flanders Public Prosecutor's Office	Dendermonde	19.24%	34.28%	49.18%	37.39%	28.42%	39.62%	16.98%	50.32%	52.72%
	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%	49.29%
	Ypres	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% ⁵⁴		
	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%	28.05%	26.46%
	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%	31.61%
	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%	17.47%
Brussels		1.32%	10.85%	17.22%	34.75%	24.85%	5.35%	/	/	/
Halle-Vilvoorde		/	/	/	/	/	/	44.23%	30.65%	17.97%
Total		10.06%	17.28%	26.61%	30.77%	34.49%	33.54%	38.49%	43.39%	38.04%

Table 46 Percentage share of 'Environmental Enforcement' cases sent to the regional sanctioning entity since the Environmental Enforcement Decree came into force in 2009.

Generally speaking, the percentage share of the number of cases submitted to the regional sanctioning entity increased steadily up to 2016 and since the entry into force of the Environmental Enforcement Decree in 2009, with the exception of a slight decline in 2014. A slight decrease in the percentage should be noted for 2017.

The table also shows ongoing regional differences in the percentage share of official reports sent to the regional sanctioning entity since the entry into force of the Environmental Enforcement Decree. For example, there are divisions that transfer half of the official reports they record to the regional sanctioning entity with a view to imposing an administrative fine, while other public prosecutor's offices 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 division

⁵³ Except data for 2016 and 2017, which are shown per public prosecution partnership if one exists.

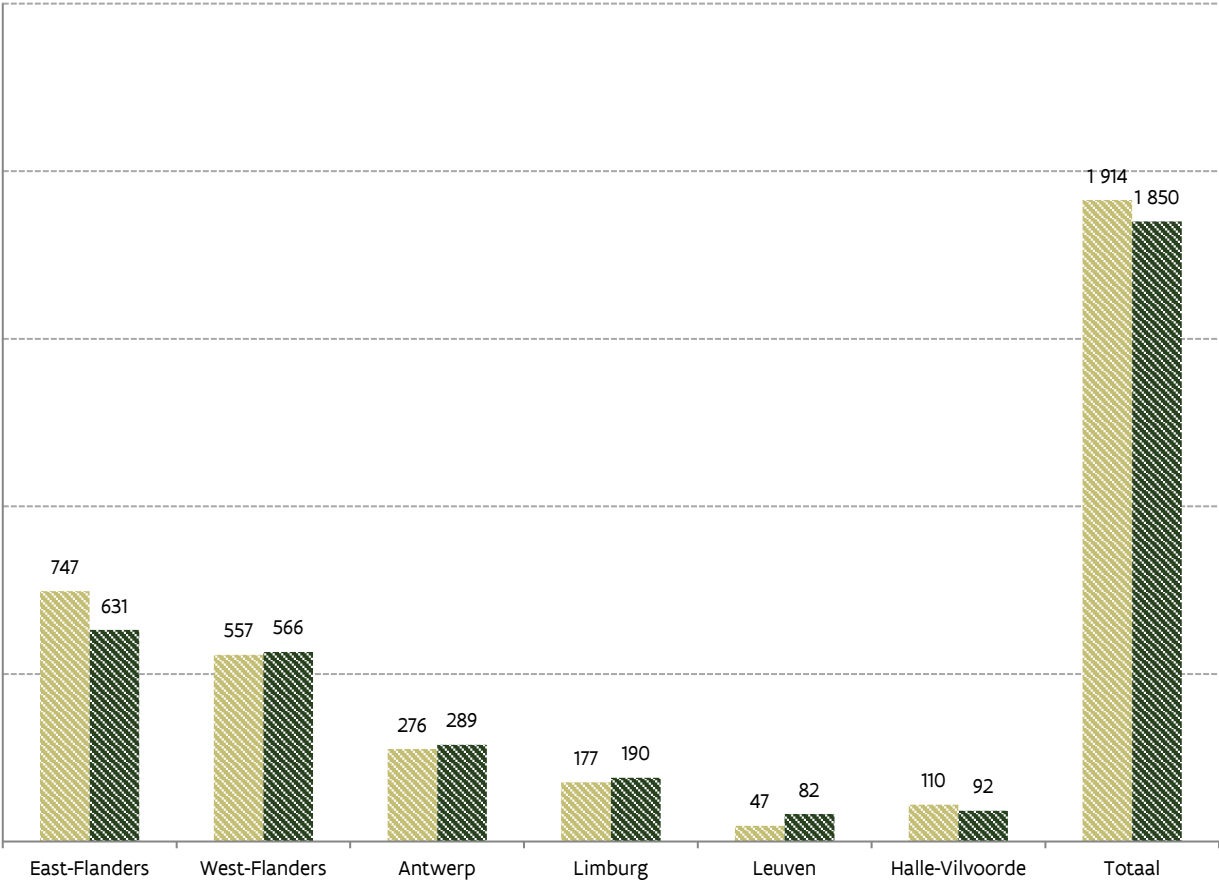
⁵⁴ This figure shows that in 2015 the regional sanctioning entity received more cases from the West Flanders Public Prosecutor's Office in Kortrijk than were recorded by this division. This can be explained by the public prosecution partnership. Kortrijk also sends cases from Bruges/Ypres/Veurne, so that may explain why the regional sanctioning entity received more cases from Kortrijk than the latter received itself.

that sent the case to the regional sanctioning entity and not according to the division of the public prosecutor's office that drafted the report.

NOTE

The data on the number of cases delivered by the public prosecutor's offices and received by the regional sanctioning entity are based on the figures that the Flemish High Enforcement Council for Spatial Planning and Environment received from the regional sanctioning entity. 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 relating to environmental offences received by the regional sanctioning entity
- Number of 'environmental enforcement' cases registered in 2017 by the criminal sections of the public prosecution services in the Flemish Region, the 'non-municipal administration sanction' and 'unspecified administration sanction' progress reports



Graph 17 The number of cases concerning environmental crimes received by the regional entities and the number of 'Environmental Enforcement' cases recorded in 2017 by the criminal divisions of the public prosecutor's offices in the Flemish Region, in the 'non-municipal administrative sanction progress state'.

Graph 17 shows that the regional sanctioning entity received 64 cases more than the number already in the 'non-municipal administrative sanction' and 'administrative sanction (non specified)' progress states with the public prosecutors on the extraction date; this is already an overestimation of the number of cases submitted to the regional sanctioning entity 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 the regional sanctioning entity.

This imbalance can be observed for some public prosecutor's offices. For example, 631 cases were in the 'non-municipal administrative sanction' progress state at the East Flanders public prosecutor's office on the extraction date, while the regional sanctioning entity stated that it had received 747 cases from this public prosecutor's office in 2017. For the public prosecutor's office in West Flanders, this ratio is 566 cases in the 'non-municipal administrative sanction' progress state and 557 cases received by the regional sanctioning entity. For the public prosecutor's office in Antwerp, this ratio is 289 cases in the 'non-municipal administrative sanction' progress state and 276 cases received by the regional sanctioning entity from this public prosecutor's office; the ratio is 190 cases for the public prosecutor's office compared to 177 cases received by the regional sanctioning entity in Limburg in 2017. Graph 17 shows that the regional sanctioning entity received 35 fewer and 18 more cases in 2017 from the public prosecutor's offices of Leuven and Halle-Vilvoorde respectively, than the number of cases in the 'non-municipal administrative sanction' and 'administrative sanction (not specified)' progress states on the extraction date.

Considering the noise in the collected data, the analysis of this component is based on the figures that the Flemish High Enforcement Council for Spatial Planning and Environment received from the regional sanctioning entity.

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 the regional sanctioning entity. The following table shows the number of cases that the regional sanctioning entity received from the public prosecutor's offices, drawn up by the various enforcement bodies.

Procentueel aandeel van de dossiers ontvangen door de parketten van het Vlaamse gewest in 2017, per handhavingsactor				
Handhavingsactor	PV door de gewestelijke entiteit in 2017 ontvangen			
	Prioritair	%	Niet-prioritair	%
Agentschap Wegen en Verkeer	1	0,71%	81	4,57%
Federale politie	0	0,00%	24	1,35%
Lokale politie	2	1,42%	864	48,73%
Gemeentelijke toezichthouders	14	9,93%	109	6,15%
Intergemeentelijke toezichthouders	3	2,13%	10	0,56%
Provinciale toezichthouders	0	0,00%	0	0,00%
afdeling Handhaving - Milieu-Inspectie	15	10,64%	278	15,68%
afdeling Gebiedsontwikkeling, Omgevingsplanning en – projecten van het departement Omgeving (<i>voorheen LNE - AMV</i>)	0	0,00%	0	0,00%
ANB	39	27,66%	242	13,65%
Bijzondere veldwachters	1	0,71%	87	4,91%
OVAM	0	0,00%	7	0,39%
VLM	65	46,10%	68	3,84%
VMM	0	0,00%	0	0,00%
afdeling Gebiedsontwikkeling, Omgevingsplanning en – projecten van het departement Omgeving (<i>voorheen LNE - ALBON</i>)	1	0,71%	1	0,06%
Agentschap de scheepvaart	0	0,00%	0	0,00%
Inspectie Cites	0	0,00%	0	0,00%
Agentschap Zorg en Gezondheid	0	0,00%	0	0,00%
departement MOW	0	0,00%	0	0,00%
Agentschap Maritieme dienstverlening en Kust	0	0,00%	1	0,06%
Agentschap Waterwegen en Zeekanaal	0	0,00%	1	0,06%
Totaal	141	100,00%	1 773	100,00%

Table 47 The percentage share of official reports received by the regional entity in 2017, by enforcement body

45.24% of the official reports, priority and non-priority, received by the regional sanctioning entity in 2017, were drawn up by the local police. In absolute figures, 866 of official reports were involved. In addition, the table shows that 14.68% of the official reports received were drawn up by the Agency for Nature and Forests and 15.31% by the supervisors of the Enforcement division - Environmental Inspectorate. Most of the priority official reports were drawn up by VLM, i.e. 46% of the priority official reports received by the regional entity were drawn up by VLM.

The following table gives an overview of the themes of the cases received by the regional sanctioning entity in 2017. The themes are the same as those used in the evaluation of the sanctioning policy implemented by the public prosecutor's offices.

Environmental themes	OR received by the regional entity in 2017			
	Priority	%	Non-priority	%
Environmental management	40	28.37%	361	20.36%
Emissions (Air, Water, Soil and Noise)	13	9.22%	280	15.79%
Permit	13	9.22%	216	12.18%
Manure	65	46.10%	80	4.51%
Waste	10	7.09%	836	47.15%
Total	141	100.00%	1773	100.00%

Table 48 The percentage share of official reports received by the regional entity in 2017, by environmental theme

The table shows that 44.2% of the cases, priority and non-priority, concerned waste. In addition, 21% of the cases received by the regional sanctioning entity in 2017 were related to environmental management, 15.3% to emissions, 12% to permits, and 7.5% to manure.

The following table gives an overview of the number and type of decisions that the regional sanctioning entity took in 2017 with regard to the alternative administrative fine. As mentioned earlier, since September 2012 the regional sanctioning entity can propose an administrative transaction for certain environmental crimes. This administrative transaction can be considered as a kind of amicable settlement since the fine procedure no longer applies after payment of the proposed amount. However, if the offender does not wish to accept the administrative transaction proposal, the regional sanctioning entity resumes the procedure for imposing an alternative administrative fine. The VHRM therefore asked the regional sanctioning entity to indicate, as in 2016, how many of these administrative transactions were proposed in 2017.

In addition to the data for 2017, the table also shows the decisions of the regional sanctioning entity regarding alternative administrative fines since the coming into force of the Environmental Enforcement Decree.

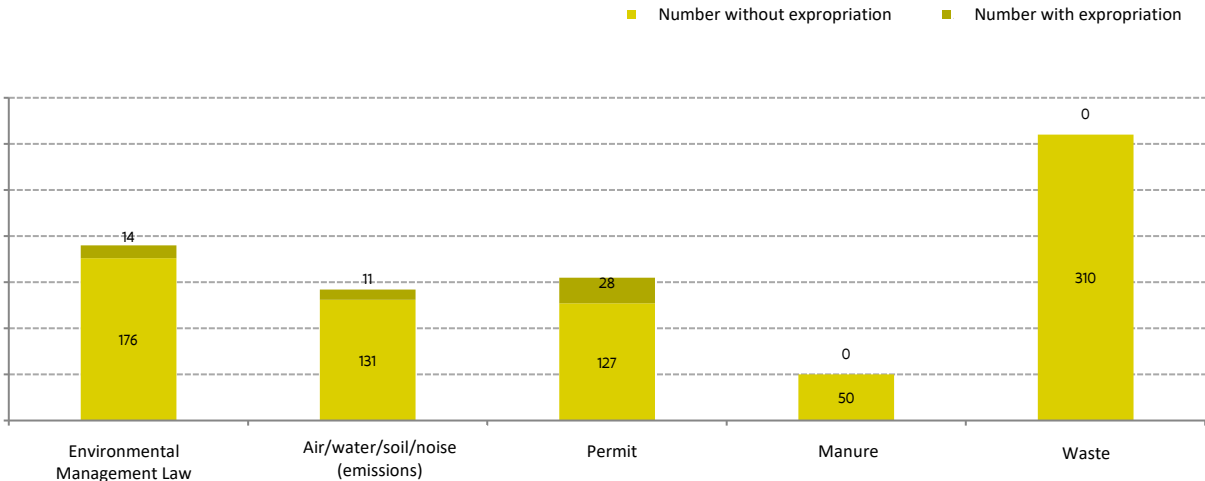
	2009	2010	2011	2012	2013	2014	2015	2016	2017			
ORs received by the regional entity of the public prosecutor's offices	304	1,100	1,597	1,545	1,594	1,693	1,932	1,991	1,914			
Processing/completion of cases involving alternative administrative fines	5	219	378	1,442	1,543	1,737	2,234	2,297	1,904			
Decision not to impose a fine	0	6	40	402	258	231	348	371	245			
Decision to impose a fine	0	151	279	1,040	966	848	1,356	1,083	847			
(Proposed and) administrative transaction was paid	/	/	/	7	311	658	(912)	530	(1,056)	843	(1,110)	812
The official report was not within the scope of section XVI of DABM.	5	62	59	0	8	0	/	/	/			

Table 49 Decisions taken in the context of alternative administrative fines by the regional entity

For 2017, we see that the regional sanctioning entity received 1,914 cases and processed 1,904 cases. Compared to 2016 and 2015, this means that in 2017 the regional sanctioning entity took a decision on fewer cases. In this respect, the regional sanctioning entity states that fewer human resources, the preparation for sanctioning spatial planning violations, an increase in the inflow of recommendations for appeals against administrative measures, and the transition to the Department of Environment and Spatial Development have led to a reduction in the number of imposed fines compared to the previous year. Only 2,297 cases were processed in 2016 and 2,234 in 2015. A total of 847 alternative administrative fines were imposed in 2017. In 245 cases it was decided not to impose a fine. In addition, 1,110 administrative transactions were proposed and 812 administrative transactions paid. The 847 decisions relating to fines also include the fines that were imposed after the administrative transaction proposal was not accepted.

In general, since the Environmental Enforcement Decree came into force in May 2009, the regional sanctioning entity has received a total of 13,670 official reports from the public prosecutor's offices. Between 1 May 2009 and 31 December 2017, the regional sanctioning entity took a decision in 72% of these 13,670 cases. During this period, 6,570 alternative administrative fines were imposed. In addition, in 1,901 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.

The graph below shows the framework within which the alternative administrative fines were imposed in 2017. It also indicates whether these alternative administrative fines were linked to an expropriation of unlawful material benefits.

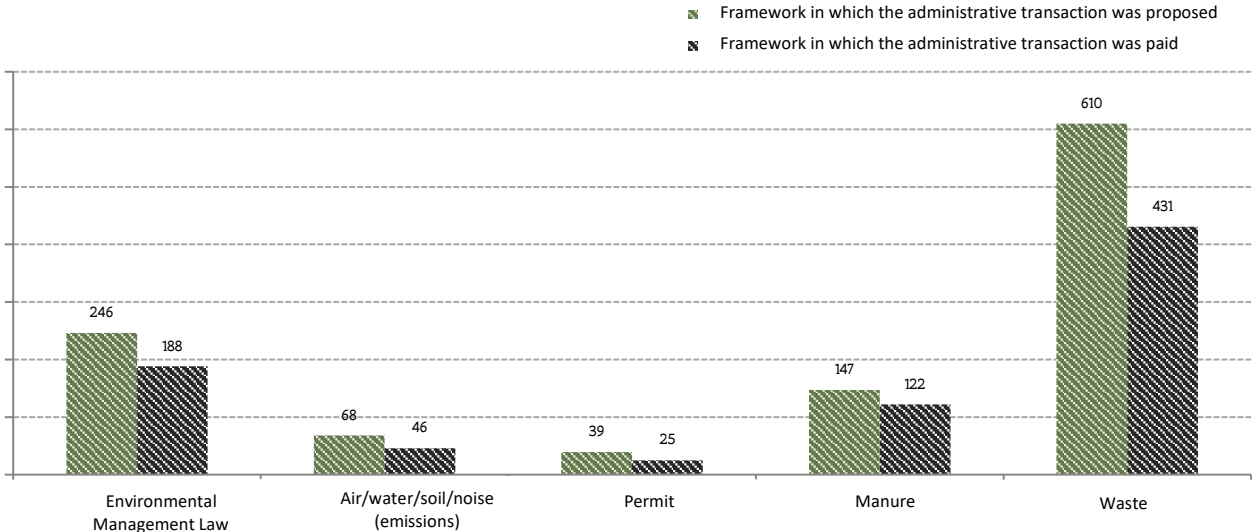


Graph 18 Framework within which alternative administrative fines were imposed by the regional entity in 2017, without and with expropriation of unlawful material benefits

The graph shows that an expropriation of unlawful material benefits was imposed in 53 out of a total of 847 alternative administrative fines given in 2017. This equates to 6.26%. Of the 190 decisions imposing fines in relation to environmental management, 14 alternative fines were accompanied by an expropriation of unlawful material benefits. In the case of fines in connection with emissions, 11 out of 142 fines were linked to an expropriation of unlawful material benefits. In terms of percentages, the expropriation of unlawful material benefits generally accompanied fines related to permits, namely 18.06% of the total number of fines related to permits. On the other hand, we see that not a single alternative administrative fine for manure and waste imposed in 2017 was subject to an expropriation of unlawful material benefits.

For 37% of the decisions imposing fines taken in 2017, the official report related to waste. Approximately 22.5% were related to environmental management. 17% of the alternative fines in 2017 related to emissions and 6% to manure. In addition, almost 18% of the decisions imposing fines related to permit cases.

Graph 19 shows the framework within which the administrative transactions were proposed in 2017 and the framework within which the administrative transactions were paid in 2017.⁵⁵



Graph 19 Framework within which administrative transactions in 2017 were proposed and paid, by environmental theme

The graph shows that the regional sanctioning entity proposed a total of 1,110 administrative transactions in 2017 and that for more than half of these proposals, i.e. 55%, the case was related to waste. In addition, for 22% of the proposals, the case related to environmental management and 13% of the cases to manure.

Furthermore, the graph also shows that, in 2017, a total of 812 payment proposals were accepted as part of the administrative transaction procedure. Given that the payment term for an administrative transaction is 3 months, some administrative transactions proposed in 2016 were only paid in 2017 and some administrative transactions proposed in 2017 will be paid in 2018. However, given these payment terms, graph 19 does not allow a one-to-one relationship to be established between the proposals and the administrative transactions actually paid. The regional sanctioning entity reports that the overall payment response for the proposed administrative transactions was 74.52% in 2016 (collection ratio on 31/12/2017).

4.2.2 Processing environmental offences

In the context of dealing with environmental infringements, the regional sanctioning entity was asked to indicate how many incident reports it had received in 2017, by whom they were drawn up, and for what reason these incident reports were drawn up and fined.

The regional sanctioning entity reported that a total of 161 incident reports were received in 2017 in relation to identified environmental offences. 93% of these incident reports were drawn up by regional supervisors. Indeed, 89 were transferred to the regional sanctioning entity by ANB, 52 by OVAM, 5 by the Enforcement division - Environmental Inspectorate, 2 by VLM and 1 by the Territorial Development, Environmental Planning and Projects Division of the Department of Environment and Spatial Development. In addition, 6 incident reports were drawn up by municipal supervisors and 6 by local police supervisors.

⁵⁵ Some of the administrative transactions proposed in 2017 will be paid in 2018. Moreover, 2017 handled administrative transactions that were proposed in 2016. The matching is therefore not 100% given that the payment term is 3 months.

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 2017. These numbers differ from the numbers received by the regional sanctioning entity in 2017. In total, the supervisory bodies reported having drawn up 284 incident reports, compared to 161 received by the regional sanctioning entity in 2017. The responding municipal supervisors stated that they had drawn up a total of 30 incident reports, whereas in 2017 the regional sanctioning entity received only 6 incident reports from this enforcement body. Local police supervisors reported that they had drawn up a total of 95 incident reports, while the regional sanctioning entity only received 6. On the other hand, it may be noted that the responding regional supervisors drew up 159 incident reports in 2017, while the regional sanctioning entity received 149 incident reports.

The regional sanctioning entity was asked to indicate the framework in which the incident reports were drawn up in 2017. The following table shows this.

Environmental management	87
Emissions	10
Permits	20
Manure	2
Waste	42
Total	161

Table 50 Incident reports received by the regional entity, per subject in 2017

The table shows that 54% of the total number of incident reports dealt with environmental management and 26% with waste. In addition, 12% of the 161 incident reports received concerned permits, 6.2% for emissions and only 1.2% concerned manure.

The regional sanctioning entity was asked to indicate which decisions were taken in 2017 with regard to incident reports received. Table 51 summarises the decisions taken in 2017 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 the regional sanctioning entity 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 the regional sanctioning entity.

	2009	2010	2011	2012	2013	2014	2015	2016	2017
Incident report received by the regional entity	18	38	18	47	89	50	137	131	161
Processing/completion of cases in the context of exclusive administrative fines	4	13	36	52	65	31	127	100	170
Decision not to impose a fine	1	0	2	3	0	4	10	6	15
Decision to impose a fine	3	5	32	49	54	20	68	32	74
(Proposed and) administrative transaction was paid	/	/	/	0	11	7	(65) 49	(92) 62	(93) 81
The Incident Report was not within the scope of section XVI of DABM.	0	8	2	0	0	0	/	/	/

Table 51 Decisions taken in the context of exclusive administrative fines by the regional entity

The table shows that, in 2017, the regional sanctioning entity received a total of 161 incident reports and took 170 decisions on identified environmental offences. An exclusive administrative fine was imposed for almost 44% of these decisions, while it was decided not to impose a fine in 15 cases. In addition, 93 administrative transactions were proposed and 81 administrative transactions paid. The 74 decisions relating to fines also include the fines that were imposed after the administrative transaction proposal was not accepted.

Since the Environmental Enforcement Decree came into force in May 2009 and until 31 December 2017, the regional sanctioning entity received a total of 689 incident reports. A decision was already taken during that period in 87% of the cases. For example, in 337 cases an exclusive administrative fine was imposed, representing 56% of the total number of decisions, and in 41 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 also see that 81 cases were processed with the abridged procedure, namely the administrative transaction.

The following table shows the framework within which the fines were imposed by the regional sanctioning entity in 2017.

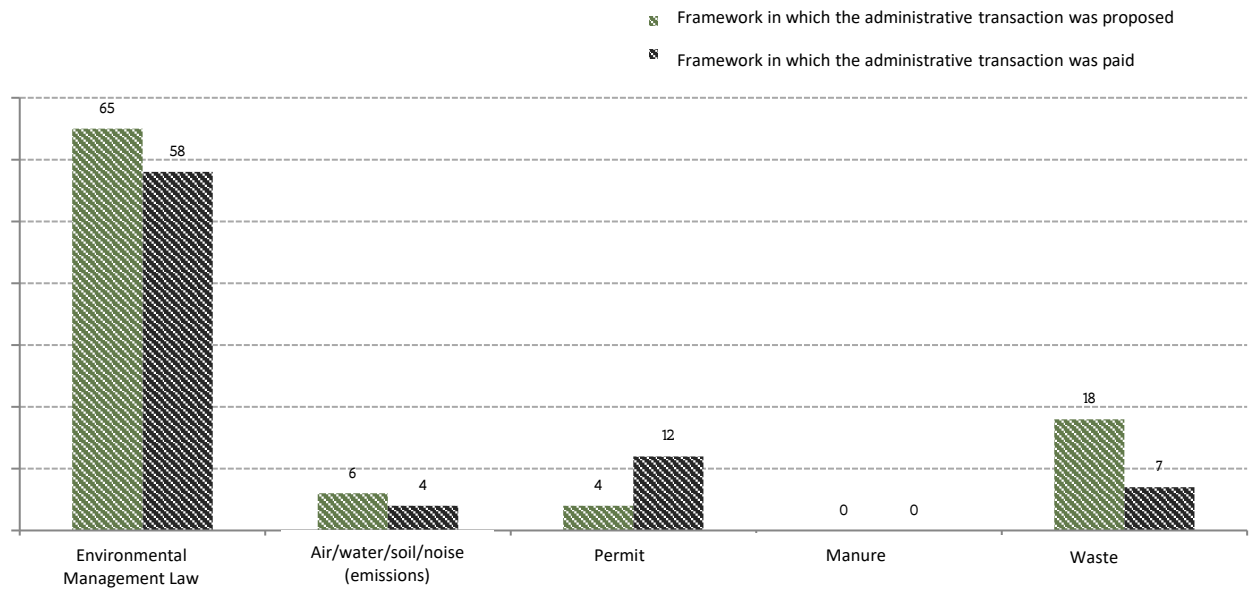
Framework within which an exclusive administrative fine was imposed:	Number of cases <u>without</u> expropriation of unlawful material benefits:	Number of cases <u>with</u> expropriation of unlawful material benefits:
Environmental management	40	0
Emissions	4	0
Permits	2	0
Manure	0	0
Waste	20	8

Table 52 Framework within which an exclusive administrative fine was imposed

The table shows that 8 cases of the exclusive administrative fines imposed in 2017 involved an expropriation of unlawful material benefits, and that an expropriation of unlawful material benefits was claimed for 28.5% of the total number of cases. In addition, nearly 6 out of 10 cases where an exclusive administrative fine was imposed related to environmental management and 3% to permit cases. In addition, slightly more than 5% of the cases concerned emissions. In 2017, no exclusive fines were imposed for manure.

The following graph shows in which framework the administrative transaction was proposed or paid in 2017.⁵⁶

⁵⁶ Some of the administrative transactions proposed in 2017 will be paid in 2018. Moreover, 2017 handled administrative transactions that were proposed in 2016. The matching is therefore not 100% given that the payment term is 3 months.



Graph 20 Framework within which administrative transactions in 2017 were proposed and paid, by environmental theme

Graph 20 shows that the regional sanctioning entity proposed a total of 93 administrative transactions in 2017, and that 70% of these proposals related to environmental management. In addition, for 19% of the proposals, the case related to waste, 4.3% to permits and 6.5% of the cases related to emissions.

The graph also shows that, in 2017, a total of 81 payment proposals were accepted as part of the administrative transaction procedure. Given that the payment term for an administrative transaction is 3 months, some administrative transactions proposed in 2016 were only paid in 2017. So given this payment term, 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 RULINGS BY THE ENVIRONMENTAL ENFORCEMENT COURT

The Environmental Enforcement Court (MHHC) is an independent administrative court that was established in accordance with article 16.4.19 of DABM. It rules on appeals against decisions of the regional sanctioning entity 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.

With the entry into force of the regulations on the enforcement of the integrated environmental permit, the Environmental Enforcement Court was renamed the 'Enforcement Court' since 1 March 2018. Given that this Environmental Enforcement Report relates to the year 2017, the term 'Environmental Enforcement Court' is still used in this report.

The decisions that the Environmental Enforcement Court can take are stipulated in article 16.4.19 para 3 of the Environmental Enforcement Decree:

- ▶ the Environmental Enforcement Court is not authorised to hear the appeal, in which case it decides to reject the appeal;
- ▶ the appeal is inadmissible. The Environmental Enforcement Court also decides in this case to reject the appeal without examining the substance 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 justified. In this case, the Environmental Enforcement Court annuls the contested decision in whole or in part, in which case (as a rule) the regional sanctioning entity can take a new decision, except in those cases in which it is not or no longer competent. However, the Environmental Enforcement Court can also take a decision on the amount of the fine and, where applicable, the expropriation of unlawful material benefits, and determine that its decision on this matter replaces the annulled decision.

The Environmental Enforcement Court was also surveyed by the VHRM about its activities in 2017. They were asked about the number of appeals received against fine decisions by the regional sanctioning entity in the context of both environmental crimes and environmental offences. They were also asked about how these appeals were dealt with.

Table 53 shows the activities of the Environmental Enforcement Court in 2017 related to the appeals lodged against fine decisions of the regional sanctioning entity.

APPEALS	Environmental crimes	Environmental offences	Total
Received in 2017	55	4	59

JUDGEMENTS	Environmental crimes	Environmental offences	Total
Appeal inadmissible (after simplified procedure)	15	1	16
Appeal unfounded, fine confirmed	89	2	91
Appeal well-founded in whole or in part, with reduction/waiver of fine	36	0	36
Appeal well-founded in whole or in part, decision of the regional entity of the Enforcement division of the Department of Environment and Spatial Development annulled without further ado	18	0	18
Granting of a waiver of appeal	2	0	2
Appeal void of purpose	0	0	0
Interlocutory judgement	3	0	3
Corrective judgement	1	0	1
Total	164	3	167

Table 53 Appeals received against fine decisions of the regional entity in the context of environmental crimes and environmental offences by the Environmental Enforcement Court in 2017 and the results of their processing

In the previous section, it was reported that the regional sanctioning entity imposed 847 alternative administrative fines in 2017. Table 53 shows that, in 2017, the Environmental Enforcement Court received 55 appeals regarding the decisions of the regional sanctioning entity for the imposed alternative administrative fines. This means that almost 6.5% of the regional sanctioning entity's decisions were appealed. However, there is no conclusive one-to-one relationship. Indeed, this percentage cannot be given precisely because the offender has a period of 30 days, starting on the day following the notification of the sanctioning entity's decision, to lodge an appeal with the Environmental Enforcement Court. This means that an appeal could still have been lodged against the regional sanctioning entity's decisions taken in the last 30 days of 2017. This in turn may be offset by the fact that appeals received in 2017 may also relate to decisions notified in the last thirty days of 2016.

Compared to 2016 and 2015, the 'appeal percentage' for the regional sanctioning entity's decisions in the context of the alternative administrative fines is slightly lower in 2017 than in previous years. In the Environmental Enforcement Report 2016 the ratio was 13%, and in 2015 it was 11%. If one looks at the period from the entry into force of the Environmental Enforcement Decree up to and including 2017, an appeal percentage of 10% can be established, since a total of 657 appeals were recorded with the Environmental Enforcement Court and a total of 6,570 alternative administrative fine were imposed by the regional sanctioning entity in that period.

The table shows, among other things, that the Environmental Enforcement Court recorded 59 appeals in 2017 and that a total of 167 judgements were handed down in 2017. Of the 164 appeals lodged against the alternative administrative fines imposed, 9% were declared inadmissible, 54% of the appeals were declared unfounded with confirmation of the fine imposed by the regional sanctioning entity and 33% of the appeals submitted were declared wholly or partly well founded, with the fine being reduced or waived. For 2% of judgements in 2017, an interlocutory judgement was handed down in 2017.

In total, since its entry into force up to and including 2017, the Environmental Enforcement Court received 657 appeals with regard to an alternative administrative fine imposed by the regional sanctioning entity and 620 (interim) decisions were taken in the same period, which represents 94%.

Furthermore, the table shows that in 2017 the Environmental Enforcement Court received 4 appeals against the imposed exclusive administrative fines and, in 2017, it took 3 decisions in this respect. One appeal was declared inadmissible and 2 appeals were declared unfounded.

For the exclusive administrative fines imposed by the regional sanctioning entity in 2017, table 17 shows an "appeal rate" of only 5.4%. The previous section indicated that the regional sanctioning entity imposed 74 exclusive administrative fines in 2017, while the Environmental Enforcement Court received 3 appeals in 2017 for 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 the sanctioning entity's decision, to lodge an appeal with the Environmental Enforcement Court. This means that an appeal could still have been lodged against the regional sanctioning entity's decisions taken in the last 30 days of 2017. This in turn may be offset by the fact that appeals received in 2017 may also relate to decisions notified in the last thirty days of 2016.

The Environmental Enforcement Report 2016 indicated that in 2016 the Environmental Enforcement Court received 2 appeals against decisions taken by the regional sanctioning entity in the context of exclusive administrative fines. The regional sanctioning entity imposed 32 exclusive administrative fines in 2016. This means that the "appeal rate" in 2016 was 6%. In 2015, 68 exclusive administrative fine were imposed by the regional sanctioning entity and 2 appeals were submitted to the Environmental Enforcement Court, i.e. an appeal rate of 3%. If one looks at the period from the entry into force of the Environmental Enforcement Decree up to and including 2017, an appeal percentage of less than 10% can be established, given that a total of 31 appeals were recorded with the Environmental Enforcement Court and a total of 337 exclusive administrative fines were imposed by the regional sanctioning entity in that period.

4.4 EVALUATION OF THE SANCTIONING POLICY PURSUED BY THE FLEMISH LAND AGENCY

It is not only the regional sanctioning entity that can impose administrative fines. The Flemish Land Agency (VLM) has already been empowered to impose administrative fines with the entry into force of the Decree of 22 December 2006 on the protection of water against pollution caused by nitrates from agricultural sources – commonly known as the Manure Decree.

Article 63 of the Manure Decree sets out exhaustively the violations for which administrative fines may be imposed by VLM. This article also sets out the calculations for the amounts of the fines. Article 71 of the aforementioned decree then specifies the violations for which an official report must be drawn up.

The administrative fines imposed in 2017 may relate to violations under the previous Manure Decree – Manure Action Plan IV and the current Manure Decree – Manure Action Plan V.

The Flemish Land Agency was therefore not only asked to specify the number of environmental enforcement inspections carried out in 2017 and the follow-up given to these inspections, as described in chapters 2 and 3, but also to specify how many administrative fines VLM imposed in the context of the inspection reports drawn up by VLM and for which violations.

The following table shows the number of field incident reports and the number of administrative fines imposed by VLM in 2017.

Imposed administrative fines and field site reports by VLM in 2017 in accordance with the provisions laid down in the Manure Decree		
	<i>Number of field incident reports</i>	<i>Number of fines</i>
Total	76 (different violations for 68 different inspections)	2,991 (as a result of field incident reports by the Enforcement department, Auditing department and administrative fines)
Fines under the previous MAP IV Manure Decree imposed in 2017		
63 § 3 the over-fertilisation of a lot	0	0
63 § 10 the late notification of transport	0	1
63 § 11 transport without proof of dispatch or submission of neighbour agreement	0	0
63 § 13 Transport of fertilisers without MAD document	0	1
63 § 15 an incorrect declaration	0	3
63 § 16 failure to keep the register	0	0
63 § 18 transport without compulsory documents	0	0
63 § 32 prior notification of performing a neighbour agreement	0	0
Fines under the current MAP V Manure Decree imposed in 2017		
63 § 1 Nitrogen and phosphate balance	0	7
63 § 2 More animals than available NER	0	1,497
63 § 3 Fulfilment of manure treatment obligation	0	147
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)	18	18
63 § 6 Failure to file or incorrect filing of the declaration	0	646
63 § 9 Not having nitrate residue analysis carried out or not doing so correctly	0	566
63 § 10 Failure to implement measures imposed in accordance with the Manure Decree	4	30
63 § 12 2° Incorrect or lack of subsequent notification or conclusion of transport by the approved manure transporter	2	3
63 § 12 3° Incorrect or lack of subsequent notification or conclusion by the authorised consignor	0	0
63 § 12 5° Incorrect or lack of subsequent notification or conclusion of the neighbour agreement	0	1
63 § 12 6° Transport of fertilisers without documents being prepared by the manure transporter	5	8
63 § 12 7° Failure to draw up the neighbour agreement	11	13
63 § 12 8° Transport of fertilisers without documents being prepared by the manure consignor	1	1
63 § 12 9° The supplier or purchaser of manure who should have known that the required documents had not been drawn up	3	8
63 § 12 10° No or incorrect use of AGR-GPS	11	13
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	0	0
63 § 12 14° The supplier or customer who transports manure with an invalid analysis	4	7
63 § 12 15° The manure transporter who should have known that the transport did not have a valid analysis	5	7
63 § 12 18° Transport is carried out with an unauthorised vehicle	2	1
63 § 13 Minor infringements in connection with transport documents	10	12

Table 54 The number and nature of the administrative fines imposed by the Flemish Land Agency in 2017

The table shows that, in 2017, VLM imposed 2,991 fines as a result of 76 site incident reports. The difference between the number of violations detected in the field and the number of imposed fines is related to the time limit for the imposition of fines. Fines were not imposed in 2017 for all the violations detected in 2017. The fines imposed in 2017 may still relate, on the one hand, to violations detected in previous years and, on the other hand, it is possible that violations detected in 2017 were not fined until 2018. In addition, the fines imposed in 2017 are for both infringements established in the field as well as administrative inspections. This means that some of the fines were imposed administratively as a result of the database audit and are not reflected in the number of field incident reports. A limited number of fines for violations detected in 2017 have not actually been imposed yet and have therefore not been included in the report yet.

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 2017.

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 625 regional supervisors were appointed in 2017. This number is lower than the 741 and 765 regional supervisors appointed in 2015 and 2016 respectively. In 2017, a total of 198.74 FTEs were deployed for environmental enforcement duties by the regional supervisory bodies, of which 176.52 FTEs by the supervisors and 22.22 by non-supervisory bodies for administrative support. In 2016, the total amount of FTEs deployed for environmental enforcement tasks by the supervisory bodies was 186.95 FTEs and 181.72 FTEs in 2015. Despite the fact that the number of supervisors fell in 2017, the time spent by these supervisors increased compared to 2016. The number of environmental enforcement inspections also increased. In 2017, the regional supervisors together carried out 37,089 inspections. In 2016, a total of 33,159 inspections were carried out by regional supervisors, compared to as many as 37,625 in 2015. For 2017, an increase in the average number of inspections per supervisor and the average number of inspections per FTE can be observed once again. 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 and increased again to 59 inspections per supervisor in 2017. The average number of audits per FTE was 175 in 2013, 158 in 2014, 207 in 2015, 177 in 2016 and 187 in 2017.

This environmental enforcement report shows that, in 2017, regional supervisors mainly enforced proactively, given the fact that no less than 88% of the total of 37,089 environmental enforcement inspections (on site or documents) were carried out on their own initiative.

Local and federal police

The data concerning the local and federal police show that, in 2017, a total of 12,632 official environmental reports were drawn up in the Flemish Region. Approximately 98% of these official reports, which is completely in line with findings of previous environmental enforcement reports, were drawn up by the local police and 2% by the federal police. 20% 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, this was 12,968 official reports.

In 2017, the Federal Police carried out 568 proactive inspections of waste shipments on the territory of the Flemish Region, as part of the National Safety Plan 2016-2019. This is an increase compared to the 497 proactive inspections carried out in 2016.

With regard to the local police, the data in chapter 2 show that, in 2017, 35% of the 77 responding police districts were able to call upon a supervisor appointed within their own police district. This is an increase compared to the 29% in 2016 when the responding police zones were able to call upon their own supervisor, but still a decrease compared to 2015 when almost 46% of the 70 responding police zones had at least one supervisor at their disposal in their own force. By contrast, the number of supervisors within police zones increased by 9 in 2017 compared to 36 supervisors in police zones in 2016. Despite the increase in the number of supervisors, a

further decrease in the number of FTEs spent on environmental enforcement tasks by these supervisors could be observed in 2017, namely 24.99 FTEs, compared to 2016 when 25.51 FTEs were spent on environmental enforcement tasks, and 2015 when 26.36 FTEs were spent on environmental enforcement tasks. The average amount of time spent per supervisor (0.56 FTE in 2017) has also fluctuated slightly in recent years, but in general we can conclude that the average local police supervisor is engaged at least half-time – and until 2016 even for 71% of their time – in environmental enforcement duties. For 2017 it was also possible to calculate the average time, i.e. 0.93 FTEs, spent on environmental enforcement tasks in the police zones that have appointed a supervisor within their own police zone. In 2016, the average amount of time for these duties was 1.21 FTE, and in 2015 it was 0.83 FTE.

In 2017, a total of 4,774 environmental enforcement inspections were carried out – 80% of which were carried out in response to complaints and reports – by the 45 supervisors appointed within the local responding police districts. This is an increase compared to the 3,550 inspections carried out by 36 supervisors in 2016. The average number of environmental enforcement inspections per supervisor rose to 106 in 2017, compared to 99 in 2016 and 94 in 2015. Therefore on average, the appointed supervisors of the responding police zones carried out more inspections. The average number of inspections per FTE also increased again in 2017 to 191 inspections per FTE. In 2016, there were 139 environmental enforcement inspections per FTE while this figure was still 215 per FTE in 2015.

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 did not receive any questions/requests for the imposition of administrative measures in 2017. In addition, the survey showed that no safety measures were taken or imposed by the provincial governors in 2017.

Only two of the five provinces together had 13 appointed provincial supervisors in 2017. Within these two provinces, a total of 1.21 FTEs were deployed for environmental enforcement tasks pursuant to the Environmental Enforcement Decree. A total of 80 environmental enforcement inspections were carried out by the provincial supervisors.

Municipalities

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 2017, only 10% of the 267 responding mayors received a request or an enquiry to impose an administrative measure. A slightly higher percentage, namely nearly 17%, applies for the number of mayors who actually imposed an administrative measure in 2017. In total, the responding mayors received 81 questions/requests for the imposition of administrative measures. This is an increase compared with 2016 when all mayors together received only 24 questions/requests. However, the response rate should be taken into account, which was only 59% for 2016 compared to 89% for 2017. In addition, the second chapter showed that a total of 115 administrative measures were imposed by the mayors. This is also a sharp increase compared with 2016 when only 55 administrative measures were imposed; this is once again a reflection of the low response rate for 2016. Half, i.e. 51%, of the administrative measures imposed in 2017, were regularisation orders. With regard to the safety measures, it was found that only 5% of the responding mayors together had received 37 questions about the imposition of a safety measure in 2017. In addition, 6% of the responding mayors also effectively imposed a safety measure in 2017. A total of 74 safety measures were imposed by the mayors last year.

With regard to nuisance-causing plants in Flemish cities and municipalities, the data in chapter 2 show that, in 2017, 225 of the 267 responding municipalities together had 12,677 class 1 plants and 221 municipalities 39,645 class 2 plants on their territory. The remaining municipalities reported that they have no information about

the number of class 1 establishments (56 municipalities) and class 2 establishments (46 municipalities) on their territory. The number of municipalities that have no insight into the number of class 3 establishments is slightly higher, namely 16% of the total of 267 responding municipalities. In 2017, the other 201 municipalities together had 122,707 class 3 establishments on their territory. In addition, no less than 142 of the responding municipalities indicated that they were aware of a total of 3,759 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 2016 it was 6,915. The remaining 125 municipalities indicated that they did not know the number of unlicensed establishments or that they did not have unlicensed establishments on their territory. In comparison with previous years, a somewhat positive trend can be observed despite the fact that the number of known unlicensed establishments subject to a permit or reporting requirement is still very high. In fact, the number of responding municipalities is at its highest level in 2017 since the start of the survey, and the number of unlicensed establishments subject to a permit or reporting requirement has decreased by 45% in 2017 compared to 2016.

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 17% and a maximum of 23%⁵⁷ of the responding municipalities still did not have sufficient supervisors at their disposal in 2017. 37 of the 267 responding municipalities even had no supervisor at all at their disposal in 2017. 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 2017.

With regard to municipal supervisors, it was found that a total of 262 municipal supervisors were appointed in 2017 within 185 municipalities with only municipal supervisors who together deployed a total of 48.64 FTEs on environmental enforcement duties. There were 82 municipalities without a municipal supervisor. Compared with 2016, there was both an increase in the number of supervisors and an increase in the total number of FTEs deployed on environmental enforcement duties. However, once again, this can possibly be explained by the higher response rate in 2017 compared with 2016. The average amount of time spent per municipal supervisor on environmental enforcement duties in 2017 was 0.19 FTE, which means that the average supervisor spends just under 20% of their time on environmental enforcement duties. In 2015, the average time spent per supervisor was 0.22 FTE, and in 2016 it was 0.20 FTE per supervisor. By way of comparison, the average time spent by the regional supervisor in 2017 was 0.32 FTE and 0.56 FTE by the local police supervisor.

In 2017 a total of 4,572 environmental enforcement inspections – of which almost 68% were carried out in response to complaints and reports – were carried out by the 262 municipal supervisors. This is an increase compared to the 3,561 inspections carried out by 191 supervisors in 2016. The aforementioned comment regarding the response rate also applies here. However, the average number of environmental enforcement inspections per supervisor dropped to 17 inspections per supervisor in 2017. In 2016 and 2015, this was still 19 inspections per supervisor. The average number of inspections per FTE also increased further from 87 inspections in 2016 to 92 inspections per FTE in 2017.

To organise environmental enforcement within inter-municipal associations, it was found that 77 municipalities made use, either in part or in whole, of 3 inter-municipal associations for the organisation of their environmental enforcement activities in 2017. This means that 25% of Flemish cities and municipalities rely in one way or another on an inter-municipal association for the enforcement of environmental regulations on

⁵⁷ Taking into account the 16 municipalities that had one supervisor at their disposal and have no idea about the number of nuisance-causing plants on their territory. There could potentially be more than 300 of such establishments, so they should have 2 supervisors at their disposal instead of one.

their territory. A total of 10 supervisors were appointed within these 3 inter-municipal associations and a total of 4.1 FTEs carried out environmental enforcement duties. These supervisors carried out 266 environmental enforcement inspections.

5.2 INSTRUMENTS

The third chapter in this environmental enforcement report deals with the use of the individual environmental enforcement instruments in 2017.

Inspections and infringements

In 2017, a total of 46,515 environmental enforcement inspections were carried out by regional supervisors, provincial supervisors, municipal supervisors and local police supervisors. This is an increase compared to the 40,337 environmental enforcement inspections performed in 2016, but still a decrease compared to the 48,419 environmental enforcement inspections that were carried out in 2015.

In 81% of all environmental enforcement inspections carried out, no violations were found. A violation was detected in only 8,721 inspections. Violations were mainly established when the provincial supervisors and the municipal supervisors carried out inspections. In 40% of all inspections carried out by municipal supervisors, a violation was found. This was even 98% for the provincial supervisors. For local police supervisors, this ratio is only 1 in 5, despite the fact that 80% of inspections were carried out on the basis of complaints and reports. Only in 16% of the inspections carried out by regional supervisors was a violation detected.

In 2016, 83% of all inspections carried out did not detect a violation. In 2015, this was 77%, in 2013 and 2012 it was only 63%. This means that the fact that an infringement was found in approximately 37% 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 infringements have been detected. This change could indicate an increased level of compliance or the lack of a risk-based enforcement.

No further action was taken with regard to the violation found in 4% of a total of 8,721 inspections where a violation was found. This is a slight improvement compared to the 5% in 2016.

As in 2015 and 2016, the result of just 1% of the total of 46,515 environmental enforcement inspections carried out in 2017 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 2017, a total of 6,140 recommendations were drawn up out of a total of 37,794 inspections in which no infringement was found. This equates to 16%. In 2016, this ratio was 19% (of a total of 6,299 warnings) and 14% in 2015 (of a total of 5,152 warnings). 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 2017. A warning was issued in 78% of all inspections where a violation was found. In total, as many as 6,812 warnings were formulated in 2017 during 8,721 inspections where an infringement was found. In 2015 and 2016, this ratio was 81% and 58% respectively.

Incident reports and official reports

Compared to the other instruments, we observe that in general, as in previous years, the incident report instrument was not used often in 2017. A total of 284 incident reports were drawn up. However, this is a further increase compared with the 59 and 214 incident reports produced by the supervisory bodies in 2015 and 2016 respectively. The percentage of use of the instrument in relation to the number of inspections in which an infringement was detected was 3% in 2017, as in 2016.

An official report was drawn up for 2,776 of a total of 8,721 inspections where an infringement was established in 2017. This represents a percentage ratio of 32%. In 2016, this ratio was 34%. With regard to the use of the official report instrument, it can also be established for 2017 that 44%⁵⁸ of the official reports drawn up was a priority official report pursuant to the 'Priority Memorandum on the prosecution policy for environmental law in the Flemish Region'.

Administrative and safety measures

In 2017, a total of 353 administrative measures were imposed by the supervisory authorities. This is a decrease compared with the 585 administrative measures imposed in 2015 and the 380 administrative measures imposed in 2016. 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 2017, this ratio was 4%, in 2016 and 2015 it was 5%. In addition, it was found that 10% of the administrative measures imposed in 2017, as in 2016, were not implemented within the required time limits. In 2015, this percentage was still 23% and in 2014 it was 15%. These figures seem to indicate that the implementation of administrative measures has improved in recent years. In 2017, only regional supervisors were able to combine their imposed administrative measures with an administrative penalty payment. In 2017, this instrument was used 5 times by one body, namely ANB. The administrative penalty payment was not actually collected.

In 2017, 53 appeals were lodged against decisions regarding administrative measures. This is an increase compared to the 33 appeals submitted in 2016. The appeal ratio was 15% in 2017. 44 of the 53 appeals lodged in 2017 were declared admissible. For 36 of these appeals, a judgement was given within the time limit. For 7 cases, the period within which the minister must take a decision had not yet expired at the time of the report. A decision was not made in time for 1 case. 50% of the judgements dismissed the appeal as unjustified, 39% were partially justified and 8% were fully justified. 3% of the appeals were declared devoid of purpose.

In 2017, 18 appeals were lodged against dismissed requests for the imposition of administrative measures. In 2015 and 2016, these figures were 5 and 11 respectively. 12 of the appeals lodged in 2017 were declared admissible, of which 3 were upheld as justified and 8 were declared unfounded.

A total of 113 safety measures were imposed in 2017. This is an increase compared to the 80 safety measures imposed in 2016. Most of the safety measures are imposed by the municipal supervisors.

⁵⁸ 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 SANCTIONING

In the section on criminal sanctions in 2017, chapter 4 reveals that 5,031 'Environmental Enforcement' cases were recorded by the criminal department of the public prosecutor's offices in the Flemish Region. 60% of these cases came from the general police and 38% from the inspection services. In 2015, a total of 5,020 Environmental Enforcement cases were recorded, and in 2016 a total of 4,589 cases were recorded.

In more than 47%, or 2,388 cases, of the number of Environmental Enforcement cases recorded by the criminal divisions of the public prosecutors of the Flemish Region in 2017, the main indictment code related to the waste theme. Emissions and environmental law cases represented 10% and 18% respectively of all cases in 2017. In addition, 20% 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 2016.

In 2017, 1,752 cases related to illegal dumping. This means that a significant proportion of the total of cases recorded by the criminal divisions of the public prosecutors in the Flemish Region related to illegal dumping, namely almost 35%. This trend could also be seen in the previous environmental enforcement reports.

Chapter 4 also shows that more than 27% of all 'Environmental Enforcement' cases recorded by the criminal prosecution offices of the Flemish Region were still under preliminary investigation on the extraction date. In addition, 26% of cases had already been dismissed without further action (dismissal for reasons of expediency or technical reasons), 2% had proposed an amicable settlement and 2% of all cases had already been subpoenaed on the extraction date. Furthermore, almost 38% of all '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 '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 and 2017 38%.

With regard to the grounds for dismissal, 26% of the 1,294 Environmental Enforcement cases that had already been dismissed on the extraction date were dismissed for reasons of expediency. In addition, 74% 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 2016, this ratio was 23% and 77%.

With regard to the administrative sanctions, chapter 4 reveals that the regional sanctioning entity received 1,914 official reports in 2017 from the criminal divisions of the public prosecutors in the Flemish Region with a view to imposing an alternative administrative fine. In 2016 and 2015, 1,991 and 1,932 official reports respectively were received. Despite a minor percentage decrease of 4% in 2017 compared to 2016, we can conclude that 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 number of recorded cases referred to the regional sanctioning entity. 45% of the cases submitted to the regional sanctioning entity in 2017 were official reports drawn up by the local police. In addition, it was found that 93% of official reports were non-priority official reports and 44% concerned waste.

In 2017, the regional sanctioning entity processed 1,904 cases referred by the public prosecutor's offices. This is a percentage decrease of 17% compared to 2016 when 2,297 cases were processed. In 847 of these 1,904 cases an alternative administrative fine was imposed. In 245 cases it was decided not to impose a fine and in 1,110 cases

an administrative transaction was proposed. 812 transaction proposals were paid in 2017. An expropriation of unlawful material benefits was imposed in 53 out of a total of 847 imposed alternative administrative fines.

In general, since the Environmental Enforcement Decree came into force in May 2009, the regional sanctioning entity has received a total of 13,670 official reports from the public prosecutor's offices. Between 1 May 2009 and 31 December 2017, the regional sanctioning entity took a decision in 72% of these 13,670 cases. During this period, 6,570 alternative administrative fines were imposed. In addition, in 1,901 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 2017 the regional sanctioning entity received 161 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. Moreover, more than 50% of these incident reports dealt with environmental management and 1/4 with waste.

In 2017, the regional sanctioning entity took 170 decisions regarding identified environmental infringements. An exclusive administrative fine was imposed for almost 44% of these decisions, while it was decided not to impose a fine in 15 cases. In addition, 93 administrative transactions were proposed. In 2017, 81 transaction proposals were paid. An expropriation of unlawful material benefits was imposed for 8 cases out of a total of 74 imposed exclusive administrative fines.

In 2017, appeals were made to the Environmental Enforcement Court for 55 of the 847 alternative administrative fines imposed by the regional sanctioning entity; this corresponds to an appeal percentage of 6.5%. Compared with 2015 and 2016, the appeal percentage for decisions of the regional sanctioning entity in the context of alternative administrative fines fell. In the Environmental Enforcement Report 2015 the ratio was 11%, and in 2016 it was 13%.

In 2017, the Environmental Enforcement Court handed down a total of 164 judgements concerning appeals against alternative administrative fines imposed by the regional sanctioning entity. 9% of the appeals were declared inadmissible, almost 54% of the appeals were declared unfounded and 33% of the appeals were declared fully or partially well founded with the reduction to or annulment of the fine as a result. For 2% of judgements in 2016, an interlocutory judgement was handed down in 2017.

If one looks at the period from the entry into force of the Environmental Enforcement Decree up to and including 2017, an appeal percentage of 10% can be established, since a total of 657 appeals were recorded with the Environmental Enforcement Court and a total of 6,570 alternative administrative fines were imposed by the regional sanctioning entity in that period. In the same period, 620 (interim) decisions were taken by the Environmental Enforcement Court, which represents almost 94% of the appeals recorded.

With regard to the exclusive administrative fines imposed by the regional sanctioning entity, the Environmental Enforcement Court received 4 appeals in 2017 and 3 decisions were taken by the Environmental Enforcement Court in 2017. The regional sanctioning entity imposed 74 exclusive administrative fines, bringing the appeal rate to 5.4%.

If one looks at the period from the entry into force of the Environmental Enforcement Decree up to and including 2017, an appeal percentage of less than 10% can be established, given that a total of 31 appeals were recorded with the Environmental Enforcement Court and a total of 337 exclusive administrative fines were imposed by the regional sanctioning entity in that period. .

As regards VLM's power to impose administrative fines in 2017, the last part of chapter 4 shows that 76 field incidents reports were made and 2,991 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. These were already formulated in the previous environmental enforcement reports, but they are still relevant given the figures for 2017 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 2017. The VHRM received a response from 267 mayors and municipalities in the Flemish Region (out of a total of 308). This represents a response rate of 87%. Since the first environmental enforcement report (MHR2009) was published, the VHRM has seen a steady increase in the response rate, which, however, fell in 2016 but rose again in 2017. This increase was achieved through more intensive contact and more active feedback with survey participants. Indeed, 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.

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 zone. The annual survey showed that there are still – in 2017 even more than in previous years – responding municipalities that do not have at least one or sufficient supervisors at their disposal. In 2017, this was the case for a minimum of 17% and a maximum of 23% of the number of responding municipalities. In 2016, 2015 and 2014, these ratios were respectively minimum 14% and maximum 20%, minimum 7% and maximum 8%, and minimum 6.5% and maximum 10.5%.

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

The VHRM raised this issue with the office of Minister Schauvliege in 2018. This will be discussed further with the Department of Environment and Spatial Development of Environment and Spatial Development, the authorised body to contact the municipalities about this.

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 2017, the regional supervisor was able to deploy an average of 0.32 FTEs on environmental enforcement tasks, while the municipal supervisor was able to deploy 0.19 FTEs. In 2017, local police supervisors were able to deploy 0.56 FTEs on environmental enforcement tasks. In 2016, 2015 and 2014, these figures were 0.24 FTEs for the regional supervisor, 0.20, 0.22 FTEs and 0.25 FTEs for the municipal supervisor and 0.71, 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 requires 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 supralocal collaboration

Based on the data provided by the responding inter-municipal associations, it was calculated that in 2017, 25% 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 further increase compared to the percentage of 20% in 2016. 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. The VHRM has already organised a number of exploratory discussions in its working groups with the umbrella organisation Vlinter and inter-municipal associations active in the field of enforcement.

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 46,515 environmental enforcement inspections carried out by supervisors in 2017, no violations were established in 81% 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 2017.

7. Focus on tackling unlicensed establishments

For 2016, 96 out of a total of 182 responding municipalities had reported 6,915 unlicensed establishments on their territory. The data provided showed that, in 2017, a total of no fewer than 3,759 nuisance-causing but (wholly or partially) unlicensed/reported establishments were active in 142 of the 267 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. For this reason, we recommend once again, despite the decrease in the total number of nuisance-causing but unlicensed/reported establishments, that efforts should be focused primarily on these cases. After all, mandatory permit and reporting requirements are the cornerstone of administrative environmental law, because conditions can also be imposed by means of a permit or the reporting requirement with a view to improving the environmental quality and limiting nuisance.

The VHRM will further investigate and map these figures with a view to developing a recommendation for the Environmental Enforcement Programme 2020-2024.

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 2017 provided again show that a number of municipalities still have no insight into the number of class 1 (56 out of 267 responding municipalities), class 2 (46 out of 267 responding municipalities) and class 3 establishments (66 of the 267 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 the 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.

The VHRM emphasises the importance of accurately recording each new permit in the register, in such a way that eventually there is clarity about all existing permits.

9. Use 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.

In its 2018 newsletter, the VHRM once again drew these H codes to the attention of the supervisory authorities.

10. Priority Memorandum follow-up

Within the VHRM, the "Priority memorandum on the prosecution policy for environmental law in the Flemish Region" protocol was drawn up with the aim of indicating which violations are considered to be a priority by a supervisor. The content of the protocol aims to ensure that appropriate action is taken, in particular with regard to those violations identified as priorities, either through criminal proceedings or at least through administrative sanctions. Gaining insight into the implementation of this priority memorandum is obviously of particular importance. 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 reported figures 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.

In this respect, it should be noted that the public prosecutor's offices are currently working on a new registration system. In addition, the VHRM has again drawn attention to the 'official report' template, which is available to enforcing bodies on the VHRM⁵⁹'s website, by mentioning it in the newsletter.

A start will be made in 2018 on updating the current priority document and extending it to include spatial planning.

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.

In this context, the VHRM developed a 'registration form' in 2017, which was made available to the supervisory bodies and which they may use.

⁵⁹ <http://www.vhrm.be/handhavers>

IV. Failure to implement administrative measures on time

Imposing administrative measures is intended to end an illegal situation within the imposed time limit. In 2017 and 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 authorised 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 21% of the administrative measures imposed by the municipal supervisors and 56% of those imposed by the local police supervisors in 2017 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. As a result, an amending decree is being prepared in 2018 that grants the non-regional supervisors the power to impose an administrative penalty payment.

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 is able/will continue to carry out these duties.

VI. Establishing illegal dumping

As in previous years, the figures from the public prosecutor's offices show that illegal dumping is the most frequently established offence in the Flemish Region. Indeed, 35% of all 'Environmental Enforcement' cases recorded by the public prosecutor's offices in the Flemish Region in 2014, 2015, 2016 and 2017 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 the regional sanctioning entity 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. The VHRM made a recommendation to the office of Minister Schauvliege in 2017.

VII. Incident report

The supervisory bodies reported having drawn up 284 incident reports, compared to 161 received by the regional sanctioning entity in 2017. It is recommended that the discrepancy between the incident reports drawn up by the regional supervisors and those received by the regional sanctioning entity be investigated.

6 ENVIRONMENTAL ACTIVITIES OF THE FLEMISH HIGH ENFORCEMENT COUNCIL FOR SPATIAL PLANNING AND ENVIRONMENT IN 2017

In this last chapter, the Flemish High Enforcement Council for Spatial Planning and Environment wishes to report on its own work in 2017 regarding environment-related issues. Activities were carried out, both in the plenary meeting and in the working groups, that fall within the scope of the VHRM's tasks as provided by decree and which benefit environmental enforcement in the Flemish Region. The activities can, of course, be considered as part of 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. 'Customer-Focused Enforcement' Conference Follow-up Programme

The VHRM organised a 'Customer-focused enforcement' conference in November 2016 for 150 environmental and spatial planning enforcers from 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 results of this conference were discussed and analysed within the VHRM in 2017. The 'Customer-focused enforcement' conference resulted in the 'Guidelines for Drafting a Code of Conduct for Enforcers', which is discussed under item XI. With this conference and its aftermath, the VHRM facilitated interaction and knowledge sharing between the various enforcement bodies, resulting in a functional guide specially designed for enforcers.

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. This programme highlighted the need to create a framework to easily exchange enforcement information between the different services. Indeed, data is necessary to facilitate systematic supervision, to act in a multidisciplinary manner and to achieve performance. Information exchange of enforcement data, both at and between the federal, regional and local levels, is crucial in order to act effectively and efficiently in the fragmented enforcement landscape, in the field, and in concrete cases.

In order to meet the needs of enforcing bodies, a study on 'The possibilities and optimisation of information exchange in the context of environmental enforcement' was outsourced as a public contract in the beginning of 2017.

The final result, which was delivered at the end of 2017, is an extensive legal analysis of applicable regulations and restrictions that may exist; the study also contains a plethora of practical answers and instruments for environmental enforcers working in the field and in the administration. Answers to practical questions, model letters and the decision tree can be applied in practice and are available to enforcement bodies via the VHRM website.

It should be clear that the result of this study was not the final phase for the VHRM. On the contrary, it was the impetus for further research, in 2018, into legislative initiatives and their implementation, the implementation of guidelines within the administration, the development of GIS applications, etc. In 2018, the VHRM is eager to examine how it can play a further role in supervising and managing this follow-up process, which is in line with the VHRM's objective of playing an advisory role in the field of environmental legislation with regard to enforcement and acting as a forum for knowledge sharing and transfer.

III. "Administrative penalty payments" Workshop

The Decree of 22 November 2013 amending Title XVI of the Decree of 5 April 1995 laying down general provisions on environmental policy (effective from 31 January 2014) introduced a new instrument for administrative enforcement, namely the administrative penalty payment.

In the meantime, regional supervisors have been able to enforce compliance with the conditions of administrative measures by attaching an administrative penalty payment.

Many considerations have to be made when imposing an administrative penalty payment. For what cases is it appropriate to use this instrument? How can the ideal amount of the penalty payment be determined? How is the penalty payment ultimately collected? These questions turned out to be an obstacle to the practical use of the instrument for many enforcement bodies.

The VHRM therefore considered it appropriate to focus on this theme in a practical and participatory workshop. In March 2017, the VHRM organised a workshop on administrative penalty payments for environmental enforcers. In this workshop, criteria for the imposition of administrative penalty payments were presented on the basis of the results of the "Study on guidelines for the application of the administrative penalty payment within the Flemish environmental enforcement policy" of the Department of Environment and Spatial Development. In addition, the Nature Inspectorate of the Agency for Nature and Forests, as an expert by experience, presented a testimony about the practical application of this instrument.

The information from the workshop and the study were made available on the VHRM's website after the workshop. The VHRM will also further investigate how tools can be provided to facilitate and support the use of this instrument in 2018. The organisation and follow-up of this workshop was part of the VHRM's role as a forum for knowledge sharing and knowledge transfer on environmental enforcement.

IV. Workshop on Avoiding Procedural Errors

In June 2017, the VHRM organised a workshop on avoiding procedural errors for environmental enforcement bodies.

The administrative measure is an important instrument for ending an environmental crime, remedying its effects and preventing its recurrence. The aim is to achieve a standards-compliant state. It goes without saying that the imposition of these measures must respect certain procedural rules and take into account governance principles and in particular the proportionality principle.

The workshop on «Avoiding Procedural Errors», organised by the VHRM in June 2017, explained when an administrative measure can be imposed, what this measure can entail, how all of this should be done, and how the measure must be followed up. Examples and cases of situations where irregularities are present were then discussed in an interactive debate to see how they can be avoided. The necessary information was made available to the environmental enforcers after the workshop on the VHRM website. The organisation and follow-up of this workshop was therefore part of the VHRM's role as a forum for knowledge sharing and knowledge transfer on environmental enforcement.

V. Exchange of Information Conference

On 5 December 2017, the VHRM organised its autumn 'Information Exchange' conference, in Mechelen for 220 environmental and spatial planning enforcers 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 information exchange. The results of the 'Information Exchange' study were presented first in a plenary session. The following workshops were held after the plenary session:

- Workshop 1: 'Opportunities for new ways of exchanging information'

This workshop addressed the following question: how can inspections be aligned and where necessary strengthened without making their own functioning more cumbersome, while taking into account privacy rules? What information is required for this? The workshop started with a short general explanation about the current technical GIS possibilities in Flanders (GEO counter), foreign examples, internal practical examples (VLM) and the personal limitations from the study. The aim was to examine the extent to which the information from inspections carried out or planned by other enforcers can make their own operations more effective.

- Workshop 2: 'Information exchange study: what information can I freely/conditionally/not pass on?'

In this workshop, UHasselt gave a short presentation of the 'Information Exchange' study based on real cases. Various questions were raised. What type of documents are used to exchange information? Are the so-called 'administrative deed' or other documents a solution? How far can this take us? Do protocols already exist to regulate the exchange of information? These questions were prepared in smaller groups and then discussed interactively.

- Workshop 3: 'Public access for citizens (specifically for enforcement)'

This workshop discussed how enforcers interface with the citizen and their rights and obligations in this respect. This contact with the citizen may involve giving advice, performing an inspection or acting in the event of an infringement. The following questions were raised during the workshop: What information can be given to third

parties about ongoing cases? Is there a difference between judicial documents (official reports) and administrative documents (administrative measures)? How do we deal with lawyers who ask for a copy of the case? How does the secrecy of the investigation relate to open government? What information can be given to a potential citizen-buyer/tenant/lessee/acquirer?

- Workshop 4: 'Principles of Good Governance'

In this workshop some principles of good governance were discussed in the context of enforcement. The following principles of good governance were explained:

- Duty to state grounds: What information must be included in the grounds of enforcement documents? How does this relate to 'the secrecy of the investigation'? Is there a distinction between the grounds for a reminder or an administrative measure?
- Proportionality principle – Equality principle: Are other cases included to demonstrate proportionality and equality? How to do this differently?
- Legal integrity and transparency: Should the municipality's enforcement policy be made public actively/passively? Doesn't this restrict the content of the policy document? Do we need to report what hasn't been done?
- Impartiality: how far does it go? Is enforcement possible at a company where the enforcer is/was a customer? How is impartiality demonstrated?

- Workshop 5: 'Information Gathering – Drones'

Drones are currently only used for enforcement by the police. This workshop demonstrated that drones and cameras could be useful tools to identify environmental and spatial planning violations. During this workshop, the possibilities and limits of using drones for enforcement were explained.

The VHRM concluded that the conference was evaluated positively and decided to take further action to support the various bodies in the enforcement landscape. For example, the conference presentations were posted on the website of the VHRM, the decision tree together with the study was uploaded to the private section, and participants' inspiration was gathered for subsequent conferences. With this conference and its aftermath, the VHRM facilitated interaction and knowledge sharing between the various enforcement bodies.

VI. Preparing the Environmental Enforcement Report 2016

The VHRM is in close contact with the various enforcement bodies to draw up the enforcement reports. In 2017, the VHRM also conducted a digital survey of all enforcement bodies in the context of drafting the environmental enforcement report.

Based on the reported figures, 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 the present environmental enforcement report, policy recommendations were formulated. The Environmental Enforcement Report 2016 was shared with the Government of Flanders on 10 November 2017. In 2017, the questionnaire for the preparation of this environmental enforcement report was also discussed and where necessary amended in relation to previous years.

VII. 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 integrated environmental permit enforcement system with the integrated environmental permit evaluation system

The updated version approved by the VHRM was submitted to the office of Minister Schauvliege on 15 December 2016. As a follow-up to a subsequent discussion with the Minister's Office, detailed answers to a number of specific questions by the Minister's Office were formulated by the VHRM and its members on 31 March 2017. The activities in the context of the Environmental Enforcement Programme are part of the VHRM's task of providing support to the Government of Flanders and the Flemish Parliament with regard to enforcement policy.

VIII. 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. The following memoranda were drawn up within the VHRM:

- Memorandum: 'Observation that minor forms of nuisance, as determined by regional supervisors, cannot be prosecuted'

Following the observation that minor forms of public nuisance, as determined by regional supervisors, cannot be fined by GAS officials in view of the existing regulation of the GAS Act, an analysis of this issue was made within the Supervision, Sanctioning and Information Working Group, and possible solutions were formulated in a memorandum. In this memorandum, this observation and the consequences of the problem were analysed, and various workable solutions for the bodies in question were formulated for the Minister's Office of Minister Schauvliege.

- Memorandum: 'AGP/OGP supervision proposal'

A second observation that was made within the VHRM regarding the question of whether or not to designate regional officials as Officers of the Judicial Police. This problem and its consequences were set out in a memorandum to the cabinet of Minister Schauvliege. A number of scenarios have been developed that could provide a solution. The Supervision, Sanctioning and Information Working Group and the plenary meeting of the VHRM also proposed a specific workable track.

IX. Integrating environment and spatial planning

The Environmental and Spatial Planning Working Group of the VHRM was also active in 2017 and worked 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 Spatial Planning Enforcement Report 2016 in preparation for its discussion in plenary meetings.

Furthermore, the Environment and Spatial Planning Working Group intended to outsource a study on the methodology of both enforcement reports and the possible integration in an Environmental Enforcement Report (see part X).

X. Study of 'Environmental Enforcement Report'

The Environment and Spatial Planning Working Group, which is involved in the integration of environmental and spatial planning enforcement, concluded that an investigation was needed into the content and methodology of the Environmental and Spatial Planning enforcement reports. On the one hand, it was necessary to investigate how the quality of the two enforcement reports could be improved and, on the other hand, how the VHRM could eventually arrive at a single, fully-fledged and relevant integrated enforcement report on the Environment that covers both areas.

The plenary meeting of the VHRM decided to outsource this research. At the end of 2017, several candidates were invited to submit a tender. The effective start of the work and delivery of the study will take place in 2018. By outsourcing this study, the VHRM is contributing to the coordination of the environmental enforcement policy and spatial planning enforcement policy within the framework of environmental policy.

XI. Tools and guidelines for enforcers

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.

Within the Supervision, Sanctioning and Information Working Group, a code of conduct for enforcers has been drawn up based on the code of conduct developed by the Flemish Land Agency (VLM), which was critically discussed and supplemented during the 'Customer-Focused Enforcement Conference'. This code of conduct can be used by bodies as a basis for their own

code of conduct and supplemented according to further specific needs. The 'Guideline for drawing up a code of conduct for enforcing bodies' was made available in the private section of the VHRM website.

Other tools and guidelines dealt with in 2017:

- Investigation into the relationship between supervisors - AGP/OGP, as discussed in chapter VIII;
- Investigation into the detection by regional supervisors of illegal dumping and problems arising in the context of the GAS regulations in the municipalities, as discussed in chapter VIII;
- An inspection checklist on selective collection from businesses was received from OVAM. This checklist was made available by the VHRM to other bodies via the closed section on the website;
- A sub-working group of the Supervision, Sanctioning and Information Working Group, started work at the end of 2017 on updating the templates and guidelines relating to the environment, in particular the incident official report, the warning, the recommendation, the administrative measures, and suchlike.

XII. Monitoring

In 2017, 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. This tool was provided by the VHRM to those surveyed in 2017. 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 in order to obtain an overview of the pursued enforcement policy.

XIII. International contacts

In 2017, the VHRM continued to monitor developments in the foreign enforcement landscape. For example, the VHRM provided feedback on the European Commission's Environmental Compliance Assurance Action Plan.

In 2017, the VHRM also remained part of the European network IMPEL (European Union Network for the Implementation and Enforcement of Environmental Law).

XIV. Communication, internal and external

In September 2017, the VHRM started to publish a monthly newsletter for its entire target group. Through this newsletter, the VHRM tries to reach as many as possible supervisors, officials and employees of governments and enforcement agencies that are active in environmental and/or spatial planning. The newsletter keeps enforcement bodies informed about regulatory changes, tools developed within the VHRM, VHRM initiatives, documents available in the private section, the publication of enforcement reports, etc. In this way, the VHRM ensures that more than 1,400 enforcement bodies are reached in an efficient manner and remain informed of the latest developments in the enforcement sector. The success of the newsletter is already reflected in the significant increase in the number of registrations for the private section of the VHRM website.

Furthermore, during plenary meetings and in working group meetings, the VHRM continued to function in 2017 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 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.

In this way, too, the VHRM aims to create greater support for enforcement.

7 APPENDICES

Glossary – abbreviations

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List of responding municipalities

List of responding Police Zones

7.1 GLOSSARY – 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)

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7.4 LIST OF RESPONDING MUNICIPALITIES

AALST	AALTER	AARSCHOT	AFFLIGEM
ALKEN	ANTWERPEN	ANZEGEM	ARDOOIE
ARENDONK	AS	ASSE	AVELGEM
BAARLE-HERTOG	BALEN	BEERNEM	BEERSE
BEERSEL	BEGIJNENDIJK	BEKKEVOORT	BERINGEN
BERLAAR	BERLARE	BERTEM	BEVER
BILZEN	BLANKENBERGE	BOECHOUT	BONHEIDEN
BOOM	BOORTMEERBEEK	BORGLOON	BORNEM
BORSBEEK	BOUTERSEM	BRAKEL	BRASSCHAAT
BRECHT	BREDENE	BREE	BRUGGE
BUGGENHOUT	DAMME	DE PINTE	DEERLIJK
DEINZE	DENDERLEEUV	DENDERMONDE	DESSEL
DESTELBERGEN	DIEPENBEEK	DIEST	DIKSMUIDE
DILBEEK	DILSEN-STOKKEM	DROGENBOS	DUFFEL
EDEGEM	EKLO	ERPE-MERE	GALMAARDEN
GAVERE	GEEL	GEETBETS	GENK
GENT	GINGELOM	GISTEL	GOOIK
GRIMBERGEN	GROBBENDONK	HAACHT	HAALTERN
HALEN	HALLE	HAM	HAMME
HAMONT-ACHEL	HARELBEKE	HASSELT	HECHTEL-EKSEL
HEERS	HEIST-OP-DEN-BERG	HEMIKSEM	HERENT
HERENTALS	HERENTHOUT	HERK-DE-STAD	HERNE
HERSELT	HERZELE	HEUSDEN-ZOLDER	HEUVELLAND
HOEGAARDEN	HOEILAART	HOLSBEEK	HOOGLEDE

HOOGSTRATEN	HOUTHALLEN-HELCHTEREN	HOUTHULST	HOVE
HULDENBERG	HULSHOUT	ICHTEGEM	IEPER
INGELMUNSTER	IZEGEM	JABBEKE	KALMTHOUT
KAMPENHOUT	KAPELLEN	KAPELLE-OP-DEN-BOS	KAPRIJKE
KORTENAKEN	KORTENBERG	KORTESSEM	KRAAINEM
KRUIBEKE	KRUISHOUTEM	KUURNE	LAAKDAL
LAARNE	LANAKEN	LANDEN	LANGEMARK-POELKAPELLE
LEBBEKE	LEDEGEM	LENDELEDE	LENNIK
LEOPOLDSBURG	LEUVEN	LIEDEKERKE	LIER
LIERDE	LILLE	LINKEBEEK	LINT
LINTER	LOCHRISTI	LOKEREN	LONDERZEEL
LOVENDEGEM	LUBBEEK	LUMMEN	MAARKEDAL
MAASEIK	MAASMECHELEN	MACHELEN	MALDEGEM
MALLE	MECHELEN	MEERHOUT	MEEUWEN-GRUITRODE
MEISE	MELLE	MENEN	MERCHTEM
MERELBEKE	MERKSPLAS	MESEN	MEULEBEKE
MIDDELKERKE	MOERBEKE	MOL	MOORSLEDE
MORTSEL	NEVELE	NIEL	NIEUWERKERKEN
NIEUWPOORT	NIJLEN	NINOVE	OLEN
OOSTENDE	OOSTKAMP	OOSTROZEBEKE	OPGLABBEK
OPWIJK	OUDENBURG	OUD-HEVERLEE	OVERIJSE
OVERPELT	PEER	PEPINGEN	POPERINGE
PUTTE	PUURS	RANST	RAVELS
RETIE	RIEMST	RIJKEVORSEL	ROESELARE
RONSE	ROOSDAAL	RUMST	SHELLE
SCHERPENHEUVEL-ZICHEM	SCHOTEN	SINT-AMANDS	SINT-GENESIUS-RODE
SINT-GILLIS-WAAS	SINT-KATELIJNE-WAVER	SINT-LAUREINS	SINT-LIEVENS-HOUTEM
SINT-NIKLAAS	SINT-PIETERS-LEEJW	SINT-TRUIDEN	SPIERE-HELKIJN
STABROEK	STADEN	STEENOKKERZEEL	TEMSE
TERNAT	TERVUREN	TESSENDERLO	TIELT
TIENEN	TONGEREN	TORHOUT	TREMELO
TURNHOUT	VEURNE	VILVOORDE	VORSELAAR
VOSSELAAR	WAASMUNSTER	WAREGEM	WELLEN
WEMMEL	WERVIK	WESTERLO	WETTEREN
WEVELGEM	WICHELEN	WIELSBEKE	WIJNEGEM
WILLEBROEK	WINGENE	WOMMELGEM	WORTEGEM-PETEGEM

WUUSTWEZEL	ZANDHOVEN	ZAVENTEM	ZELE
ZELZATE	ZEMST	ZINGEM	ZOERSEL
ZOMERGEM	ZONHOVEN	ZONNEBEKE	ZOTTEGEM
ZOUTLEEJW	ZUIENKERKE	ZULTE	ZUTENDAAL
ZWALM	ZWEVEGEM	ZWIJNDRECHT	

7.5 LIST OF RESPONDING POLICE ZONES

POILCE DISTRICT AALST	POILCE DISTRICT AALTER/KNESSELARE	POILCE DISTRICT AARSCHOT	POILCE DISTRICT AMOW
POILCE DISTRICT ANTWERPEN	POILCE DISTRICT ASSENEDE/EVERGEM	POILCE DISTRICT BALEN/DESSEL/MOL	POILCE DISTRICT BERINGEN/HAM/ TESSENDERLO
POILCE DISTRICT BIERBEEK/BOUTERSEM/ HOLSBEEK/LUBBEEK	POILCE DISTRICT BILZEN/HOESLT/RIEMST	POILCE DISTRICT BLANKENBERGE/ ZUIENKERKE	POILCE DISTRICT BODUKAP
POILCE DISTRICT BRAKEL	POILCE DISTRICT BRASSCHAAT	POILCE DISTRICT BREDENE/DE HAAN	POILCE DISTRICT BRT
POILCE DISTRICT BRUGGE	POILCE DISTRICT DAMME/KNOKKE-HEIST	POILCE DISTRICT DEINZE/ZULTE	POILCE DISTRICT DENDERMONDE
POILCE DISTRICT DILBEEK	POILCE DISTRICT DRUIVENSTREEK	POILCE DISTRICT ERPE-MERE/LEDE	POILCE DISTRICT GAVERS
POILCE DISTRICT GEEL/LAARDAL/ MEERHOUT	POILCE DISTRICT GENT	POILCE DISTRICT GRENS	POILCE DISTRICT GRENSLEIE
POILCE DISTRICT GRIMBERGEN	POILCE DISTRICT HAACHT	POILCE DISTRICT HAGELAND	POILCE DISTRICT HANO
POILCE DISTRICT HEIST	POILCE DISTRICT HERKO	POILCE DISTRICT HET HOUTSCHE	POILCE DISTRICT KASTZE
POILCE DISTRICT KLEIN BRABANT	POILCE DISTRICT K-L-M	POILCE DISTRICT KOUTER	POILCE DISTRICT KRUIBEKE/TEMSE
POILCE DISTRICT LIER	POILCE DISTRICT LOKEREN	POILCE DISTRICT LOWAZONE	POILCE DISTRICT MAASLAND
POILCE DISTRICT MECHELEN/WILLEBROEK	POILCE DISTRICT MEETJESLAND-CENTRUM	POILCE DISTRICT MIDDELKERKE	POILCE DISTRICT MIRA
POILCE DISTRICT NOORD	POILCE DISTRICT NOORDERKEMPEN	POILCE DISTRICT OOSTENDE	POILCE DISTRICT PAJOTTENLAND
POILCE DISTRICT POLDER	POILCE DISTRICT REGIO PUYENBROECK	POILCE DISTRICT REGIO RHODE EN SCHELDE	POILCE DISTRICT REGIO TIELT
POILCE DISTRICT REGIO TURNHOUT	POILCE DISTRICT RIHO	POILCE DISTRICT RODE	POILCE DISTRICT RONSE
POILCE DISTRICT SCHELDE-LEIE	POILCE DISTRICT SINT-NIKLAAS	POILCE DISTRICT SINT-TRUIDEN/GINGELOM/NIEUWE RKERKEN	POILCE DISTRICT SPOORKIN
POILCE DISTRICT TIENEN/HOEGAARDEN	POILCE DISTRICT TONGEREN/HERSTAPPE	POILCE DISTRICT VILVOORDE/MACHELEN	POILCE DISTRICT VLAS

POILCE DISTRICT VOEREN	POILCE DISTRICT VOORKEMPEN	POILCE DISTRICT WESTKUST	POILCE DISTRICT WOKRA
POILCE DISTRICT ZAVENTEM	POILCE DISTRICT ZENNEVALLEI	POILCE DISTRICT ZOTTEGEM/HERZELE/ SINT-LIEVENS-HOUTEM	POILCE DISTRICT ZUIDERKEMPEN
POILCE DISTRICT ZWIJNDRECHT			

COLOPHON

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