

Introduction

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1. REASONS FOR THIS BOOK

This book is the result of an international conference that has been organized on 13–14 November 2013 in Brussels by the Flemish High Council of Environmental Enforcement under the auspices of the International Network for Environmental Compliance and Enforcement (INECE). The main goal of the conference and hence of this resulting volume was to address the phenomenon of networking with respect to the enforcement of environmental law in a more systemic and academic manner. There has been for a long time in many countries experience with a large variety of different networks in the area of environmental enforcement. The reasons for the creation of those networks are usually relatively straightforward: given limited assets of enforcement agencies, there is a lot to be gained by joining forces and by sharing information via networking. The bottom line is hence that networking can increase the effectiveness of environmental enforcement and therefore equally contribute to the quality of the environment.

The problem is, however, that although in some legal systems (mostly in Europe and in the US) a lot of experience with networking in the area of environmental enforcement exists, this is less so in other, mostly developing, legal systems. Moreover, environmental enforcement networks can be of totally different characters. In some cases, there are transboundary (often also regional) networks; in other cases, networks have a rather vertical character within one country and yet in other situations there are topic specific networks, e.g. focusing on problems with transboundary waste.

Although, academic literature is focusing more and more on environmental enforcement networks,¹ the topic is to a large extent understudied by academics. Perhaps wrongly so, the conditions under which

¹ See more particularly the seminal work of Grant Pink, 'Environmental Enforcement Networks: a Qualitative Analysis' (2010), <http://ssrn.com/abstract=1803179>.

environmental enforcement networking could be successful has by many perhaps too much been considered as a practical or at best policy relevant issue. As this volume will make clear, it is also possible to approach environmental enforcement networks in a more systematic, say even academic, manner. Environmental enforcement networking can in that sense be considered as one of the many forms of 'smart' enforcement. Given the already mentioned problem of limited budgets of enforcement agencies (and in times of crisis they may even be reducing), networking can be seen as a potentially cost-effective mechanism of environmental enforcement.

Less is known, however, on the precise conditions under which particular environmental enforcement networks may be less or more effective or, in other words, what could be considered 'best practices' as far as environmental enforcement networking is concerned.

Since, in fact, no academic book exists on environmental enforcement networks which attempt to provide an integrated analysis of this phenomenon, there were important reasons for this volume. This book has in fact many objectives. The most modest objective is at the same time an important one: simply providing information to all interested readers on the phenomenon of environmental enforcement networking, thus providing insights in what type of environmental enforcement networks have emerged at the world-wide level. Already this simple presentation of various models of effective networking, including transboundary, regional and thematic networks, can already provide valuable information. It sheds light on where apparently at a practical level there is a demand for those environmental enforcement networks. Moreover, an attempt will also be made, following the model developed earlier by Grant Pink and James Lehane,² to categorize the various types of environmental enforcement networks according to their specific goals and quality of the collaboration. In addition, this book will also enlighten the potential advantages of networks and will hence explain how potential benefits can be generated by joining efforts as far as enforcement activities are concerned. Finally, the most ambitious task of this book is undoubtedly to also provide criteria for 'best practices' as far as environmental enforcement networking is concerned. The various chapters in this book will, to the extent possible, try to explain why particular cases of networking have been particularly successful. This can thus provide an important element of learning for

² G. Pink and J. Lehane, 'Environmental Enforcement Networks: Development of a Network Evaluation Matrix' in International Network for Environmental Compliance and Enforcement, INECE 9th International Conference on Environmental Compliance and Enforcement, Conference Proceedings, 20–24 June 2011, Whistler, British Columbia, Canada (Washington, 2011).

others who may wish to set up environmental enforcement networks as well as contributing to the effectiveness of their enforcement efforts.

The book therefore aims at contributing to the academic literature on the effectiveness of environmental enforcement and at the same time also wishes to add to the policy debate by indicating criteria under which this type of environmental enforcement networking may prove to be effective.

2. METHODOLOGY

For the complex objectives that this book has set itself, a variety of different methodologies will be followed.

2.1 Multi-disciplinarity

It may be clear that even though environmental enforcement may be at the core of environmental law, the question of the effectiveness of environmental enforcement networks can surely not be addressed by lawyers alone. Hence, the reader will notice that within this book, there are undoubtedly many contributions by lawyers, but many contributions by others as well. For example in order to know what may inhibit an effective networking, one also needs to look into cultural elements which may constitute impediments for such a networking (as Chapter 3 does); moreover, in addition to a legal, also an economic approach is necessary, for example to examine under what conditions self-regulation could also be considered as an effective instrument of environmental enforcement (Chapter 10). Finally, much of the practical information on the functioning of networking is often available with experts from totally different backgrounds such as, for example, officers from the European Commission (Chapter 18) or police officers with many years of experience in networks aiming at remedying transboundary shipment of waste (Chapter 25).

2.2 Legal Interdisciplinary

Moreover, within the legal domain, a variety of legal disciplines are also used. Insights into the effectiveness of environmental enforcement networks obviously require knowledge of environmental law. However, enforcement is very closely related to criminal law and criminal procedure. Moreover, procedural law and the art of judging also play an important role in the effectiveness of environmental enforcement. As a result, even in the chapters with a stronger legal focus, a legal interdisciplinary approach is followed.

This interdisciplinary approach is also related to the fact that not only a theoretical approach to networking is followed. It may be clear that one will learn most about the effectiveness of environmental enforcement networks by examining how particular networks are functioning and have functioned in the past. Therefore, many of the chapters in Parts III and IV, which address the practical functioning of networking, often provide an empirical approach by examining how particular networks have functioned and developed in practice.

2.3 Comparative Approach

Finally, it may be clear that many of the networks that are discussed and described in this book are not confined to the boundaries of one country. Many networks are regional and cross-borders of particular legal systems. Moreover, some networks even have global ambitions, like the International Network on Environmental Compliance and Enforcement (INECE) itself.³ As a result of the strong focus on the benefits of networks of a transboundary nature, many of the chapters also follow a comparative approach.

3. FRAMEWORK AND PARTNERS

The conference that was at the basis of the current book was organized by the Flemish High Council of Environmental Enforcement (VHRM). This Flemish High Council of Environmental Enforcement⁴ was created in 2009 and since its creation has been active in the international area of environmental enforcement. The VHRM is a member of the European Union Network for the Implementation and Enforcement of Environmental Law (IMPEL) and is involved in the activities of the International Network for Environmental Compliance and Enforcement (INECE). As an international network on environmental compliance and enforcement, INECE has always initiated research into the effectiveness of various enforcement models. It was one of the topics of a seminar preceding the last international conference organized by INECE in Whistler (Canada) in June 2012.⁵

The Flemish High Council of Environmental Enforcement has always been very interested in the question of how enforcement cooperation can

³ See further on INECE: www.inece.org.

⁴ www.vhrm.be.

⁵ See the proceedings: <http://inece.org/conference/9/confproceedings/>.

be effectively organized between different partners in the enforcement chain. Therefore, the VHRM decided to contribute to executing the INECE agenda of improving collaboration between the partners in the environmental enforcement chain, and that is why the VHRM decided to organize its 2013 annual conference on the topic of environmental enforcement networks: concepts, implementation and effectiveness.

The main partners behind the conference, which constitute the basis of the current volume, were hence this VHRM (of the Flemish Region) and INECE.

4. TOPICS

In order to attain the objectives for this book mentioned above, contributors were invited to provide insights on a variety of topics related to the quality of environmental enforcement networking. Hence, participants were invited to contribute *inter alia* on:

- Benchmarks and criteria for optimal transboundary environmental enforcement networks;
- Possibilities of networks between various inspection authorities, both national and transboundary;
- Networking between administrative (inspection authorities, administrative sanctioning) and criminal enforcement and sanctioning authorities (public prosecutor's office), both national and transboundary;
- Thematic networks;
- National, regional and transboundary case studies discussing any of the above; and
- Theoretical concepts underpinning practical network cooperation.

5. STRUCTURE OF THIS BOOK

At a conference in November 2013, almost 40 papers were presented. An editorial process took place as a result of which 26 papers were selected to be included in this volume. Those papers were submitted to an editorial process resulting in the current 26 chapters. The organization of the book into four different parts resulted in the following structure.

Part I provides first a general theory of environmental enforcement networking. Chapter 1 by Grant Pink describes the theory, practice and potential of environmental enforcement networks; next, in Chapter 2,

Campbell Gemmell places the importance of environmental networking in the framework of the better regulation agenda. Chapter 3 by Esther Janssen uses culture theory to explain some key success factors for environmental cooperation across cultures. In Chapter 4 Zerrin Savaşan provides a comparative analysis of four different networks. Chapter 5 by Grant Pink and James Lehane describes the network evaluation matrix, showing how it is possible to assess and evaluate environmental enforcement networks.

Part II then turns to the important point of the potential benefits of networks. Therefore James Lehane in Chapter 6 provides a critical analysis of environmental enforcement networks. In Chapter 7 Grant Pink addresses the important issue of the added value of environmental enforcement networks especially in times of reducing resources and budgets. Campbell Gemmell and Tony Circelli in Chapter 8 describe the mutual relationship between environmental regulation and enforcement networks and show the importance of networks as facilitating knowledge exchange. Edward van Asch shows in Chapter 9 how, more particularly with respect to the case of wildlife crime, networking can enable global responses and a more effective coordination. In Chapter 10, Martin de Bree, Han de Haas and Paul Meerman discuss the important question of how environmental enforcement networking and supervision could function within a model of self-regulation.

Part III then describes and analyses a variety of so-called thematic networks. A first network is the Lusaka Agreement Task Force for Wildlife Crime Enforcement, discussed by Emmanuel B. Kasimbazi in Chapter 11. Eugène Lubieniecki discusses the enforcement network of the Huntington Port in the US in Chapter 12. Luc Lavrysen then presents the well-known European Union Forum of Judges for the Environment (EUFJE) in Chapter 13. Chapter 14 presents the well-known seaport initiative of INECE aiming at the prevention of illegal hazardous waste shipments.

In addition to these more thematic networks, Part IV provides an overview of a variety of rather horizontal networks. Chapter 15 by Deborah Kopsick and Susan Elizabeth Bromm presents the North American working group on Environmental Enforcement and Compliance. William Fawcett shows the advantages of informal environmental networking via the network of the Environmental Protection Agency in the EU in Chapter 16. One of the hosts of the conference preceding this volume is INECE. The working of INECE is presented by several co-authors in Chapter 17. Chapter 18 by Miroslav Angelov and Liam Cashman of the European Commission discusses the importance of environmental networking for the implementation of EU environmental law and also

addresses the evolution of regulation concerning environmental inspections. Gerphas Opondo presents in Chapter 19 the case of the East African Network for Environmental Compliance and Enforcement (EANECE).

In Part V, LeRoy Paddock returns to the US in Chapter 20 by presenting the regional environmental enforcement networks there. Chapter 21 by Bernadette Araba Adjei and Larsey Mensah discuss Ghana's efforts at creating environmental enforcement networks. The specific case of Italy is discussed by Grazia Maria Vagliasindi in Chapter 22. The case of China with its many challenges in environmental law enforcement is discussed by several co-authors in Chapter 23. Environmental enforcement networking efforts in Chile are discussed in detail in Chapter 24. Frans Geysels presents the efforts concerning environmental enforcement by the Belgian police in Chapter 25. The host of the conference, the Flemish High Council of Environmental Enforcement, is presented in Chapter 26 by Michael Faure and An Stas.

The final chapter provides concluding and comparative remarks by the editors.

6. CONTRIBUTORS

The 26 chapters to this volume have been written by a large variety of different authors coming often from different backgrounds, both academia as well as practice. Grant Pink is connected to the Law School of the University of New England (UNE) and equally works for Australian Government's Department of the Environment. James Lehane works for the Australian Pesticides and Veterinary Medicines Authority. Campbell Gemmell is Professor of Environmental Regulation and Policy at the University of Glasgow. He is also Consulting Partner of the Scottish Environmental Protection Agency. Tony Circelli is CEO South Australian EPA and Vice Chair of AELERT. Esther Janssen is managing director of Culture-Inc. Zerrin Savaşan is connected to the Department of International Relations of the Selçuk University in Turkey. William Fawcett works for the European Environment Agency in Denmark. Edward van Asch is a PhD candidate at the University of Sheffield in the UK. Martin de Bree is connected to the Rotterdam School of Management of Erasmus University Rotterdam in the Netherlands; Han de Haas works for Erasmus University in the Netherlands and Paul Meerman for the Regional Environmental Protection Agency of Midden- and West-Brabant, also in the Netherlands. Emmanuel Kasimbazi is connected to the Law School of the Makerere University in Kampala (Uganda). Eugène Lubieniecki is an independent environmental

contractor in the US. Luc Lavrysen is a Judge in the Belgian Constitutional Court in Brussels and President of the European Union of Judges for the Environment (EUFJE). Jo Gerardu is a co-founder of INECE and acts as a consultant to the INECE Secretariat. Durwood Zaelke is the Director of the Institute for Governance and Sustainable Development, Kenneth Markowitz is the Managing Director and Meredith Koparova is the Program Manager at the INECE Secretariat in Washington, DC (US). Gunnar Baldwin is a consultant to the INECE Secretariat. Danielle Grabiell is a law fellow at the Institute for Governance & Sustainable Development in Washington, (US) and Robert Heiss is the Director of the International Compliance Assurance Division of the US Environmental Protection Agency in Washington, DC (US). Deborah Kopsick is also with the International Compliance Assurance Division of the Environmental Protection Agency in Washington (US). Susan Bromm works for the US Environmental Protection Agency. Henk Ruessink is Coordinating Special International Advisor with the Human Environment and Transport Inspectorate. Miroslav Angelov and Liam Cashman are connected to Directorate-General Environment of the European Commission in Brussels (Belgium). Gerphas Opondo is the Regional Coordinator of the East African Network for Environmental Compliance and Enforcement (EANECE). LeRoy Paddock is connected to the George Washington University in Washington, DC (US). Bernadette Araba Adjei is the Principal Legal Officer of the Water Resources Commission of Ghana; Larsey Mensah is the Director of the legal department of the Environmental Protection Agency in Ghana. Grazia Maria Vagliasindi is connected to the University of Catania (Italy). Xinyuan Lu is connected to the Chinese Society for Environmental Sciences; Hu Qin is with the Environmental Defense Fund China Program and Jun Yang also works for the Environmental Defense Fund China Program. Both institutions are in Beijing (China). Juan Carlos Monckeberg, Kay Bergamini and Cristian Pérez are all with the Superintendence of the Environment of the government of Chile in Santiago. Frans Geysels is with the Environmental Crime Service of the Belgian Federal Judicial Police in Brussels (Belgium). Michael Faure and An Stas are with the Flemish High Council of Environmental Enforcement (VHRM) in Brussels (Belgium).

This wide variety of contributors shows not only totally different backgrounds (a collection of many disciplines, but also academics, practitioners and policy makers), the contributors also represent many of the main existing (like INECE) or emerging (as in Chile) networks. This wide variety of authors therefore guarantees that insights from many disciplines in different parts of the world are brought together in this volume.

7. ACKNOWLEDGEMENTS

As editors of this volume, we owe thanks to many who made this volume and, especially, the conference proceedings possible. We obviously owe thanks to the presenters at the conference and those who were subsequently willing to undertake the drafting of the various chapters and going through the intensive editorial and review process to which we submitted them. The entire conference was prepared by an informal organizing committee that met several times to select papers and organize the conference programme. In addition to the editors of this volume, also Henk Ruessink gave us invaluable help. The same was true for Jo Gerardu who, from INECE and jointly with our partners from the Netherlands, provided us with help on many fronts, for example by distributing the initial call for papers to the impressive INECE network.

The conference and the following book would not have been possible without the help of various authorities in the Flemish Region. We first of all would like to thank Mrs Joke Schauvliege, who at the time of the organization of the conference was the Flemish minister of Environment, Nature and Culture.⁶ We do realize that, especially in a political climate where one often tends to focus on the immediate benefits for the primary voters (in the Flemish Region) it is very courageous for someone with political responsibility to encourage the Flemish High Council of Environmental Enforcement to develop and participate in international networks. 'Our' minister Joke Schauvliege has always recognized the importance of networking and internationalization for the quality of inspection and enforcement in the Flemish Region and we very much appreciate her support. We equally owe thanks to Mr Jean-Pierre Heirman, secretary-general of the department of the Environment for his support of the work of the Flemish High Council of Environmental Enforcement.

Moreover, incredible work has been done in the preparation of the conference and afterwards during the editorial process especially by Laïla Macharis. We are truly grateful since we realize that without her help, this volume would simply not have existed.

Finally, we owe thanks to our publisher Edward Elgar for guiding us in a very pleasant and agreeable way through the entire editorial process and making sure that a book with fine contents also receives the cover, format and layout that such contents deserve.

⁶ At the time of editing this volume (June 2014), we are still in a period where a new Flemish government has to be formed, as a result of which it is still unknown who might be the next Flemish Minister for the Environment.

