

## Chapter 8

### The interface between subnational and national levels of government

Multilevel regulatory governance- that is to say, taking into account the rule-making and rule-enforcement activities of all the different levels of government, not just the national level – is another core element of effective regulatory management. The OECD’s 2005 *Guiding Principles for Regulatory Quality and Performance* “encourage Better Regulation at all levels of government, improved co-ordination, and the avoidance of overlapping responsibilities among regulatory authorities and levels of government”. It is relevant to all countries that are seeking to improve their regulatory management, whether they are federations, unitary states or somewhere in between.

In many countries local governments are entrusted with a large number of complex tasks, covering important parts of the welfare system and public services such as social services, health care and education, as well as housing, planning and building issues, and environmental protection. Licensing can be a key activity at this level. These issues have a direct impact on the welfare of businesses and citizens. Local governments within the boundaries of a state need increasing flexibility to meet economic, social and environmental goals in their particular geographical and cultural setting. At the same time, they may be taking on a growing responsibility for the implementation of EC regulations. All of this requires a pro active consideration of:

- The allocation/sharing of regulatory responsibilities at the different levels of government (which can be primary rule-making responsibilities; secondary rule-making responsibilities based on primary legislation, or the transposition of EC regulations; responsibilities for supervision/enforcement of national or subnational regulations; or responsibilities for service delivery).
- The capacities of these different levels to produce quality regulation.
- The co-ordination mechanisms between the different levels, and across the same levels.

#### Assessment and recommendations

*Considerable effort and resources are being put into linking up the local level with national objectives for Better Regulation, and results have started to emerge.* There is increasing co-operation between central and local levels of government in key areas of Better Regulation such as reform of inspection practices, the reduction of administrative burdens and licensing reform. Core ministries (Interior, Finance and Economic Affairs) are clearly working hard to involve local governments in their Better Regulation programmes.

Central government is providing direct support for municipalities, including consultancy funds to address burden reductions. Concrete results have started to emerge such as the review and simplification of “model regulations” (templates for local regulations produced by the Association of Municipalities VNG), the establishment of a Better Regulation website dedicated to local level Better Regulation issues, and pilot schemes to test the principle of “silence is consent” for licensing.

*The Central Government Agreement with the Municipalities is an effective means of structuring the approach and identifying priorities.* This agreement (under which a specific action plan is drawn up), which is concluded between central government and the VNG at the start of each government term, has been used to good effect to define shared goals.

*Uneven progress can be expected and the role of the VNG is important for evening out differences across the country.* With 441 municipalities (a large number for a relatively small country) and considerable variations in size (and culture), some municipalities are doing better than others. The OECD peer review team were told that progress on licensing reform is especially patchy. The role of the VNG is important for disseminating best practice and encouraging horizontal co-operation.

*The action plan rightly addresses not only what municipalities can do for central government but also what central government can do for municipalities.* The task force for addressing burdens generated by central government (part of the action plan) addresses the important issue of regulatory burdens generated by central government. There is concern at the local level at the weight of new regulations and a desire to see more targeted management of the development of new regulations which will “hit” the local level. The VNG has proposed that each ministry appoint a co-ordinating lawyer for new regulation that will affect the local level.

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**Recommendation 8.1. Further development of the shared agenda for Better Regulation should pay particular attention to licensing, and to finding effective ways of addressing the likely impact of centrally generated regulations on the local level. This issue should be included in the proposed review of *ex ante* impact assessment (see Chapter 4).**

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## Background

### *Structure, responsibilities and funding of local governments*

#### *Structure of local governments*

##### Provinces and municipalities

The Netherlands is a decentralised unitary state with three tiers of government. It is divided into 12 provinces<sup>1</sup> and 441 municipalities.<sup>2</sup> Each province and municipality has its own council, elected by popular vote. Their executives are chaired by provincial governors (Queen’s commissioners) and mayors, who are appointed by the central government, and who also chair their council. They can be established, dissolved, and their boundaries can be revised by act of the parliament. The Ministry of Interior has overall co-ordinating responsibility for local government affairs.

There are significant differences in size and culture between municipalities. The “big four” cover the four main cities of Amsterdam, Den Haag, Utrecht, and Rotterdam.<sup>3</sup> These interact directly with central government ministries. The Association of Netherlands

Municipalities (VNG) speaks on behalf of the smaller municipalities. The capacities of smaller municipalities for Better Regulation is very limited.

### Water boards

In addition, there are water boards, which are responsible for water management. The water boards are one of the oldest democratic institutions in the Netherlands. Water management is an important issue as about one quarter of the Netherlands lies below sea level. The boards are public bodies, with executive councils elected for the most part by property owners in their localities. The chair of the executive committee is appointed by the central government.

### *Responsibilities and powers of local governments*

Provincial and municipal authorities have important implementation and enforcement (including inspection) functions, especially in physical and environmental planning, and in licensing, based on regulations laid down by central government. Most inspections are carried out by local governments, except for food, health and safety, labour issues. Municipalities are also required to implement certain measures laid down by the province to which they belong.

Provinces and municipalities also have limited powers to make their own regulations (by-laws) on matters that directly affect them, and they may also make additional regulations in areas that have already been regulated at national level. Provincial executives implement a number of central government regulations in joint governance. The Constitution and the Municipal Act set the framework for local rule-making. The General Municipal Ordinance contains most of the local regulation.

Provincial authorities are responsible for environmental management, spatial planning, energy supply, social work, sport and cultural affairs. They also play a co-ordinating and planning role, and supervise the finances of the municipalities.

Municipal authorities are responsible for water supply, traffic, housing, public authority schools, social services, health care, sport, recreation, and culture.

### *Funding of local governments*

Provinces and municipalities have two main sources of income: local taxes and charges which amount to some 19% of total income for municipalities,<sup>4</sup> and central government funding. Most of the latter is in the form of ring-fenced special purpose grants. In addition, municipalities receive block grants from the provinces and municipalities funds which they can spend as they see fit. Municipalities draft their budget annually on the basis of the Budget and Accountability Decree for Provinces and Municipalities.

### ***Better Regulation policies deployed at local level***

#### *Central Government Agreement with the Municipalities*

The centrepiece of Better Regulation at the local level is an agreement (“*Bestuursakkoord*”), which is made at the start of its term of office by central government with the Association of Netherlands Municipalities VNG (of which all Dutch municipalities are members) to follow up on relevant aspects of the Coalition Agreement. The current central-local agreement requires a reduction of 25% in administrative burdens from municipalities for citizens and companies. It also requires that administrative burdens

between government levels should be reduced by 25%. The VNG and central government have developed an action plan to give effect to this agreement.

### Box 8.1. Action plan for the reduction of administrative burdens at local level

- *Review of model regulations.* Model regulations are produced by VNG when new policies must be implemented by municipalities. Because municipalities do not always have the judicial knowledge or capacity, VNG produce model regulations which can easily be implemented by municipalities. Following consultation with stakeholders, and using a form of the Standard Cost Model, the VNG has reduced the number of model regulations from 147 to 117, including a review to make them more "administrative burden friendly". A number of e-forms for online use have also been developed to promote uniform implementation by municipalities.
- *Central-local taskforce for addressing burdens generated by central government.* This brings together central government representatives and the VNG, and is chaired by a high-profile mayor.<sup>5</sup> Problems identified by the Task Force may be relayed directly to the responsible central government State Secretary. The VNG has produced a list of national regulations which are seen as an obstacle to the reduction of administrative burdens at local level. The 2006 State of Local Government Report calculates that on average, municipalities receive a ministerial circular every second working day.<sup>6</sup> The baseline measurement of administrative burdens on business showed that around 90% of the administrative burdens of municipalities originate from tasks delegated to municipalities from the national government based on national regulations. Only 10% of administrative burdens thus originate from the autonomous competences of municipalities.
- *Simplification of central government payments to municipalities.* Replacing specific payments by central government for the execution of tasks delegated to the municipal level by payment to a common municipal Fund. Municipalities will no longer have to report on expenditure linked to specific payments.
- *Website.* Funded by the Interior, Finance and Economic Affairs ministries, and run by the VNG, the website describes how municipalities can reduce the administrative burdens for citizens and companies ("less rules, more service").<sup>7</sup>
- *Consultancy funds.* Possibility for municipalities to apply for a facility to receive a small payment for hiring a consultant (it will compensate 75% of the total costs), who can measure the administrative burdens caused by this specific municipality and give advice on measures which can be taken to reduce these burdens. In this way, municipalities become aware of the administrative burdens they cause in their own municipality. This facility is financed by the ministries of Finance, Economic Affairs and the Interior.
- *Top ten bottlenecks for citizens.* Municipalities are involved in the top ten bottlenecks for citizens. Pilot projects are being started in the field of volunteers and mediation. Others will follow. *Pioneer municipalities.* A group of pioneer municipalities have been created, which are very active in the field of reducing administrative burdens. Best practices are disseminated on the website hosted by the VNG.
- *Trailblazers.* There are also some 80 trailblazer municipalities involved in pilot schemes to test whether *lex silencio* can be applied.

The VNG drew particular attention to the reform of model regulations but it also noted that making model regulations more administrative burden friendly raises the issue of a new approach to risk. “To what extent are politicians and society willing to accept risks? The last decades had an almost risk-free society Acceptance of a certain level of public risk will be decisive for success. We have to make politicians aware of the possibility of organizing society in other ways than with regulation.”<sup>8</sup>

### *Initiatives by specific municipalities*

This largely depends on the size of municipalities. Some larger municipalities are particularly active on their own account and in the framework of national policy on Better Regulation. For example, Amsterdam has set itself Better Regulation goals, which are set out in its annual report, and has established a steering group of its (very autonomous) district councils to oversee progress. It was the recipient of a European e-Government award in recognition of its efforts to streamline licensing procedures, and is making substantial efforts to reform its inspection approach in line with the national policy of more proportionate and information based inspections (including a training academy for inspectors). It notes that RRG also helps and monitors progress.

### *Consultation and communication*

The VNG draws attention to a number of mechanisms aimed at ensuring that stakeholders (including administrators within local government) are aware of, and can comment on, Better Regulation developments:

- Regulations made by local governments are systematically communicated to affected parties and to citizens in general.
- A Better Regulation website hosted by the VNG has been established (less rules more service), dedicated to the dissemination of information on Better Regulation projects at the local level.<sup>9</sup>
- Efforts are made to ensure that communication approaches are tailored to the audience: brochures, instruction manuals, newsletters, articles in national and local newspapers, seminars, workshops, meetings, conferences.
- Specific initiatives such as the reform of model regulations and the local level’s engagement in the regulatory burden reduction programmes are discussed with local stakeholders and feedback given to them.

### *Co-ordination mechanisms*

Co-ordination between the national and municipal levels, as well as co-ordination between municipalities, is assured by the Association of Netherlands Municipalities (VNG). The Association of Provincial Authorities (IPO – *Inter-Provinciaal Overleg*) represents the provincial level. The IPO’s activities reflect the competences of the provinces, namely the environment, rural affairs, social policy, regional development, housing, culture, water, security and enforcement, mobility and the economy.

### Box 8.2. Association of Netherlands Municipalities (VNG)

The Association of Netherlands Municipalities (VNG) is the main organisation representing Dutch municipalities. It was originally established in 1912 by 28 Dutch cities. Membership is voluntary but by 1950 all municipalities had become members *check*. It is funded by the municipalities.

The VNG covers the following activities:

- Representation, negotiation and consultation on municipalities' interests with central government (notably the Ministry of Interior and the RRG for the regulatory burden reduction programmes), as well as with the provincial level, the EU institutions and other relevant public bodies.
- It represents municipalities' interests in negotiations on collective labour agreements with unions of local government personnel.
- Advice and information to members on issues of local interest.
- Together with *Egem* (an organisation that works on electronic tools for municipalities) supply of electronic forms for model regulations. Encouragement and support to municipalities to improve their electronic access and electronic payments.
- Provision of services for municipalities, including model regulations. Dissemination of best practice.

## Notes

1. Groningen, Friesland, Drenthe, Overijssel, Gelderland, Utrecht, North Holland, South Holland, Zeeland, North Brabant, Limburg, Flevoland.
2. As of January 2009.
3. Economic activity in the Netherlands is concentrated in the area known as the Randstad, the urban belt that includes the country's four main cities.
4. Property tax, court fees, local charges such as dog licences.
5. The mayor of Groningen, who is also well known in national politics.
6. According to the report, a circular can be understood as a general written communication from central government to all provinces or municipalities, which may relate to new regulations, detailed explanations of regulations, instructions regarding the discretionary interpretation of regulations, or requests for co-operation.
7. [www.minderregelsmeerservice.nl/smartsite](http://www.minderregelsmeerservice.nl/smartsite).
8. Reply to OECD questionnaire.
9. [www.minderregelsmeerservice.nl](http://www.minderregelsmeerservice.nl).

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