

Analyse en toepassing van het instrument voordeelontneming in het kader van de bestuurlijke milieuhandhaving [Analysis and Use of the Forfeiture of Illegally Acquired Benefits in the Administrative Enforcement of Environmental Law].

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The research aims to support an effective use of the forfeiture of illegal benefits in the administrative sanctioning track.

The analysis starts with a comparison between the competence the criminal courts have to impose a forfeiture of illegally acquired benefits and the competence the Flemish administration has to do so based on article 16.4.26 Flemish Environmental Policy Decree (original provision, forfeiture of net benefits). An overview of the use of the sanction by the criminal courts completes the comparison.

Then the research turns to the possibilities the sanction has in the administrative enforcement track. Building on empirical data, Billiet & Rousseau establish a list of environmental offences that, at first glance, could offer fitting cases to forfeit illegally acquired benefits in the administrative sanctioning practice. They refine (shorten) this first list using the economic analysis of the forfeiture of illegally acquired benefits. Subsequently, they develop a method to calculate the net benefits that can be forfeited and detail the steps to follow for each of the environmental offences shortlisted, including an identification of cost categories and of information channels where to find information about those costs. Finally, they make checklists to be used when drafting notices of violation reporting one or more of the shortlisted offences, to help ensure those notices provide the information needed to calculate the net benefits when sanctioning.