

Special inspection services: empirical survey of their reporting behaviour

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1. Theoretical starting points

Special inspection services differ from the ordinary police services by homing in on a specific area of special criminal law. The scale and variety of these special laws is matched by the very high and wide variety of special inspection services. It is almost impossible to list the special laws and services in a way that offers a clear overview of the situation. What is more, scientific surveys often show a lack of consistency between the special laws and several services are frequently entitled to check compliance with the same law even though this is not specifically provided for within a consultation, coordination or cooperation framework. The special inspection services also enjoy a wide variety of powers and fields of action.

The "malfunctioning" of these special inspection services has been highlighted for some time in the social discourse and in scientific surveys. This cropped up recently during the dioxin-in-food scandal. The scientific surveys were primarily intended to investigate various items applying to these services, such as legislation, powers, their historical foundation and their operating procedures. Nonetheless, few surveys have been conducted on the activities of the special inspection services at field level. This applies in particular to activities featured in a certificate of offence (reporting). As very little is known about this subject, the special inspection services are a quite fascinating field of study. In contrast, the activities of the ordinary police services have been studied thoroughly and in recent years their certificates of offence are centralised in the SCII (Integrated Inter-police Criminal Statistics).

Under the heading of "Institutions as crystallised measures", it should be stressed that the special inspection services are involved in the police reform only to a limited extent although several key policy concerns, such as the environment, in the government's security programme form de facto part of the areas covered by the special inspection services.

In the light of how little is known about special inspection services' reporting behaviour and the fact that criminal statistics for statements of offence are exclusively kept where ordinary police services are concerned, the following objectives have been defined:

1. There is a need to have an overview of the special inspection services' activities as part of their activities as a whole.

The objective involves a few key areas of investigation:

- a. How do the special inspection services operate and where?
- b. To which extent do the special inspection services make use of their limited police powers to make certificates of offence having evidential value unless the contrary is proved and how does this fit in with the administrative process procedures?
- c. Which overlaps and inconsistencies exist between the various special inspection services in the context of the criminal and administrative activities they develop?
- d. To which extent do the special inspection services and ordinary policy services cooperate and exchange information?
- e. How are the certificates of offence – which are sent by the special inspection services – tried by the public prosecutor's offices?
- f. To which extent are the ordinary police services involved in the field of special criminal legislation and are there any differences in the way cases are processed?
- g. What kind of relationship exists between special inspection services and the public prosecutor and have the public prosecutors promoted a convergence between department policy and criminal policy?

- h. The survey's final question reflects the need to know whether the special inspection services genuinely deploy the penal instruments or otherwise. Under this heading, is criminal law a suitable way of dealing with problems, or should it be regarded as the *ultimum remedium* or last option to be taken when other processing systems have failed?
2. Supplementing the standard criminal statistics.

The survey is to be used as a basis for making an experimental review of the way standard crime statistics may be amplified by certificates of offence drawn up by the special inspection services.

2. Methodology

In a bid to achieve this survey's objectives and answer its questions, an examination was made of the literature on the special inspection services and special criminal laws. Use was also made of both qualitative and quantitative investigation methods. During the preliminary phase of the survey (1 February – 1 June 2001), an examination was made of the literature already available on the special inspection services. The websites of the various services were consulted, the different Internet research opportunities were used and the special inspection services were approached so as to find out further details. An inventory of the special inspection services was also drawn up¹. This was required because no inventory is available in the literature, where a special inspection service is defined as *"a service, an administration or an official in charge of checking compliance with certain special criminal laws and entitled to draw up a certificate of offence having evidential value unless the contrary is proved"*. This definition has been used as a starting point in this survey because we have sought to consider the behaviour of the special inspection services when it comes to reporting. In other words, it is of key importance to keep track of special inspection services that enjoy police powers. The idea is to get an understanding of the services that are entitled to issue certificates of offence but do not use this entitlement.

The empirical phase and the information gathering process (1 June 2001 – 1 June 2002) relate to two parallel strands of the survey. The first part involves gathering information on the special inspection services' certificates of offence in the context of three public prosecutor's offices. This implies in particular: selecting the public prosecutor's offices, selecting and consulting the cases, encoding the information and preparing three practical data files. It was decided to examine cases from the public prosecutor's offices at Ghent and Brussels courts of first instance and the labour auditor in Charleroi. The Ghent public prosecutor's office was chosen for two reasons: a) because our research group is attached to the Ghent University and we were keen to learn about the situation in our own city and b) because this office was very enthusiastic about being involved in our survey. The public prosecutor's office at the Brussels court of first of instance was picked for two reasons: Brussels is the capital of Belgium and a major hub of professional and economic activity. A great many special inspection services operate in the economic sector within the broad sense of the term. Apart from these two public prosecutor's offices, we also investigated a labour auditor, because the survey's focus is on all the existing special inspection services. Our choice fell on the Charleroi labour auditor in the light of the dire employment problems in this region. The cases were chosen according to the following criteria: a case had to comprise an initial certificate of offence drawn up by a special inspection service and apply to offences committed in 1998. We chose 1998 as one of our interests was in the follow-up of cases. During the consultations about each case, the following items of information were singled out: prevention code (for the Ghent and Brussels public prosecutor's offices, as the Charleroi labour audit do not use prevention codes); the case number, the authority responsible for issuing the certificates of offence, the legislation and the follow-up of the case plus the fines imposed. These items of information are reproduced in the form of codes in the various data files. The practicable data file from the public prosecutor's office at Ghent features 915 cases. The one from the public prosecutor's office at the Brussels court of first instance has 1,451 cases, whilst the one from the Charleroi labour auditor boasts 594 cases.

¹ The supervisory committee allowed us to publish this inventory at an earlier date. The "Wegwijzer bijzondere inspectiediensten" was published by Maklu.

In the second part of the empirical phase, 30 special inspection services were subject to an intensive examination so as to chart how the services operate and are organised. The idea was also to gather information about the context so as to be able to produce an accurate picture of the quantitative survey findings. The in-depth interviews were conducted on the basis of a standardised questionnaire. This was divided into three main categories of questions. The first series focused on the inspection services' administrative process. The second series zeroed in on the organic functioning of the services, whilst the third series of questions concentrated on cooperation with other special inspection services, with police services and the public prosecutor's office. The inspection services due to be interviewed were selected in the light of one or two key criteria. The most significant criterion was the issuance of certificates of offence: consideration was given to inspection services that pro rata send a lot, an average amount, few or no certificates of offence to the various public prosecutors. A second yardstick was the ministry to whom the services are accountable, with the subdivision, forming part of a federal ministry or communities or regions. The final criterion covered the special characteristics of an inspection service. Examples of this are a service due to be axed in the future and a service whose administrative system is fairly out of the ordinary.

In the next phase of the survey (1 June 2002 – 1 December 2002), the qualitative and numerical survey findings were processed and three round table meetings were staged. These meetings were designed to provide a feedback to the services taking part in our survey and to raise questions about what the future has in store for special inspection services. During the phase for drawing up the report (1 December 2002 – 1 February 2003), policy proposals were tabled in addition to the description of the methodology and the survey findings.

3. Findings

3.1. Meaning and shared features of the special inspection services

The survey reveals that Belgium really has a great many special inspection services. There are a lot more than we actually thought. However, it is hard to put a precise figure on the number of services². It should be realised that this is a vibrant sector, as the special services are in a permanent state of flux. Moreover the special inspection services differ from each other quite significantly. In a nutshell, they form a particularly colourful patchwork. This variety within the inspection sector is in marked contrast to the police sector in general, which generally errs more on the side of uniformity. This is particularly true in the wake of the recent reforms resulting in a *two-tier integrated police service*. It is also surprising that the inspection service has not been involved at all in this reform process³. Apparently, there are as many reasons for integrating the special inspection services as for integrating the police services.

What exactly is the difference between police services and inspection services? What are the unifying themes of the special inspection services, notwithstanding the aforementioned variety?

Both the police services and the inspection services are entitled to forward certificates of offence to the public prosecutor's offices, but the way the inspection services operate apparently differs from the approach adopted by the police services. For example, the inspection services are required to carry out *own-initiative preventive inspections* and do so – much more than the police services. The inspection services also carry out inspections subsequent to complaints, at the request of outside authorities or in the light of information received from one or another inspection service, but they generally step in on a *proactive* basis. In other words, they often act when no offence has been reported. This generally involves *criminal policy systems*. The aim of these special inspection services is not so much "investigating" or "clarification" within the conventional meaning of these terms. It is primarily a matter of checking (effective) compliance with special (criminal) legislation. On the other hand, the

² An inventory, based on this survey, is available. See : DE KEULENAER, S., VAN ALBERT, K., PONSAERS, P., *Wegwijzer Bijzondere Inspectiediensten*, Maklu, Antwerpen/Apeldoorn, 2003, pp. 175.

³ PONSAERS, P., "Een blik in de toekomst: Sturen vanop wel heel grote afstand", in: FIJNAUT, C., DE RUYVER, B., GOOSSENS, F. (Eds.), *De reorganisatie van het politiewezen*, Samenleving Criminaliteit & Strafrechtspleging nr. 17, Universitaire Pers Leuven, Leuven. 1999, p. 265-275.

normal police services tend to adopt a reactive approach, generally stepping in when an offence has been committed and notified by a victim.

As the survey reveals, special inspection services generally intervene *without any prior notification*. Notification is given only when the nature of the inspection so requires. The inspections are generally carried out in what is described as a *calm* atmosphere, even though some special inspection services report sometimes being faced with *verbal abuse*. As for *drawing up a certificate of offence* nearly all the inspection services questioned have taken steps to ensure such a statement is legally correct. A harmonised system is also apparently used for verifying the quality of these certificates: the rule is to check them for errors before sending them to the public prosecutor. Apart from these organic functioning factors, virtually all the inspection services interviewed also spoke of *staff shortages*.

As for *cooperation* between the police force, the public prosecutor's office and other inspection services, similarities are also found between the various special inspection services. *Joint inspections* between the special inspection services on an inter-service basis or between the special inspection services and the police are carried out at the initiative of one of the two key players. Alternatively, these joint operations may be governed by an agreement or cooperation. If the police are the ones taking the initiative, this is because of *technical prowess* at the command of a given inspection service or to carry out a road-related inspection on a joint basis. If the joint inspection is performed at the request of an inspection service, this reflects the need for the *police* to be involved as an *authority providing support* or because they want a road-related inspection to be carried out with the police. Therein lies the main difference between the police services and the special inspection services, or so we might be led to believe. Unlike the general police services, special inspection services are not involved in the "*monopoly of legal violence*", they have specialist technical skills and their powers are confined to a *few special criminal provisions*. On the other hand, the general police services, enjoy wide-ranging policing powers.

Informal and/or formal inter-service contacts between the special inspection services and between the latter and the police services are made for the same reasons in all the inspection services interviewed: to report offences and complaints about issues that do not come within their jurisdiction, to raise questions, to propose joint inspections and to swap information. The *legal basis* of the exchange of information tends to be a bit sketchy in many circumstances. Informal contacts between the special inspection services and the public prosecutor's office are also made for the same reasons in the inspection services questioned: to consider a specific case or to raise questions about a recommendatory note or a special regulation.

3.2. Relationship between criminal and administrative procedures

Another common feature of the various special inspection services is the absence of consultation between many of the special inspection services and the public prosecutor's office regarding priorities. Although a report on environmental priorities has been established and some opportunities for deliberation exist, the criminal policy of the public prosecutor's office remains to be largely unknown by most special inspection services. Often, the public prosecutor's policy is in fact conflicting with the policy conducted by a department. There is an urgent need for transparency and convergence within the inspection services questioned. This is because many of them use the criminal procedure as an *ultimum remedium*. When the certificates of offence that are sent, involve cases closed without any action being taken - *nolle prosequi* - because they are "non-priority" cases, this undermines the way the special inspection services operate. In a nutshell, a department's *inspection and investigation policy* is hardly consistent with the public prosecutor's *prosecution policy* or is not consistent at all.

The survey also shows that most of the services try, where possible, to deal with offences in an *administrative way first of all*, but they feel a criminal processing system is justified, particularly with an eye to the *ultimum remedium*. Hence there appears to be some justification for maintaining limited policing powers.

So much for the similarities, the common features of the special inspection services. However, they also *differ* from each other in lots of ways. This applies more specifically to the administrative processing procedures and cooperation with the public prosecutor's office, the police force and other special inspection services.

The survey pointed to a wide range of *administrative processing procedures*. The procedures reported to us involve: *administrative fines, administrative settlements, settlements, doubling the amount of taxes, on-the-spot fines, warnings that are time-limited or otherwise, closing down a business for a while or forever, withdrawing or suspending licences, stopping any loading, immobilising vehicles until offenders have complied with the requirements, on-the-spot destruction of goods, relinquishing the goods so the fine is lifted, automatic membership, automatic social security office declarations and constraints such as affixing seals and ceasing activities*. What is striking here is that these processing procedures are used solely by members of special inspection services and not by members of the ordinary police services, even though an urgent call had been made, within the context of the debate on "Community (Oriented) Policing", for police officials to be granted *discretionary powers*⁴.

Entitlement or non-entitlement to impose the aforementioned administrative processing procedures is provided for by *law or decree*. In other words; each piece of legislation has to be considered to discover what course of action a special inspection service may take. *As for the warning, the interviews showed that this method is often used as well even though it is not provided for by law*.

The *warning* is a frequently used processing method, but the decision-making procedures vary considerably at operational level prior to issuing a warning or otherwise. Some special inspection services place emphasis on the personal assessment of the inspectors. Other services have *guidelines* in addition to the personal assessment system. A few of the special inspection services questioned have concluded unambiguous agreements about how to act in certain circumstances, thereby minimising the need for personal assessments.

The survey reveals that a special inspection service's lines of action vary according to the legislation and various decision-making procedures are applied for issuing a warning or otherwise. On top of this, it also highlights how the procedures for imposing administrative fines *may differ* from one inspection service to another. No less than *three procedures* may be singled out: (1) the administrative fine may not be imposed until the *public prosecutor's office lodged a nolle prosequi*; (2) the administration may impose an *on-the-spot administrative fine*, thereby ruling out the need for the public prosecutors office to be involved; (3) the administrative fining proceeding and the criminal processing of the case get off to a start *at the same time*.

Apart from the various administrative processing procedures, inspection services also differ as to the *frequency* with which joint inspections take place. Also different is the level of contact between special inspection services and police services and between inspection services on an inter-service basis. Some inspection services report never or hardly even carrying out joint inspections with another inspection service or a police service. Other inspection services questioned say they plan a moderate to a large amount of joint operations. All the special inspection services questioned say they have contacts with the police from time to time but contacts between special inspection services on an inter-service basis may be non-existent, infrequent or frequent. Contacts are established on both a *formal and an informal basis*.

⁴ PONSAERS, P., "De politie in de 'community' of the 'community' in de politie?", in : *Handboek Forensisch Welzijnswerk*, BOUVERNE-DE BIE, M., KLOECK, K., MEYVIS, W., ROOSE, R., VANACKER, J. (eds.), Academia Presse, Gent, 2002, p. 417-456. As for discretionary involvement, see: PONSAERS, P., "Community (Oriented) Policing en sociaal discretionair politie-optreden", in : *Herstelrecht tussen toekomst en verleden - Liber Amicorum Tony Peters*, DUPONT, L., HUTSEBAUT, F. (eds.), Universitaire Pers Leuven, Samenleving Criminaliteit & Strafrechtspleging, Leuven, 2001, p. 441-454; PONSAERS, P., "Doorduwen of onderhandelen? De betekenis van sociaal discretionair optreden in het kader van gemeenschapsgerichte politie", in : *Voor verder onderzoek ... - Pour suite d'enquête*, DUHAUT, G., PONSAERS, P., PYL, G., VAN DE SOMPEL, R., Politeia, Bruxelles, 2002, p. 649-666.

During joint inspections involving special inspection services and police services, there is *no uniform system for making out certificates of offence*. The five different ways of doing so are: (1) the party initiating the inspection makes out the certificate of offence; (2) the special inspection service invariably performs this task as it has a wider experience in this area; (3) the certificate of offence is always made out by the police, as police officers are more familiar with the criminal aspects; (4) each authority draws up a certificate of offence according to its own legislation; or (5) agreements are concluded to decide who should do the reporting.

As for cooperation with the *public prosecutor's office*, *obvious differences* are reported between the special inspection services, sending their certificates of offence to the public prosecutor's office at the court of first instance and inspection services forwarding their certificates to the labour auditor. Cooperation with the *labour auditor* is generally considered to be quite appreciated and in most cases *feedback* is provided about the follow-up of cases. Most special inspection services believe the feedback provided by the *public prosecutor's offices of the court of first instance* is *insufficient*. There are mixed opinions about the quality of the cooperation with these public prosecutor's offices: some of the inspection services interviewed described the cooperation as unproductive, two services said there is hardly any cooperation or no cooperation at all and a third group of inspection services is fairly pleased with its cooperation with the public prosecutor's office. The special inspection services also appear to differ in the case of recommendatory notes: some services receive these on a *regular basis* or *a lot of them*, whereas others *hardly receive any or receive none at all*.

3.3. Obvious differences in the case of prosecutions and sentencing

Databases available to the Ghent and Brussels public prosecutor's offices and the Charleroi labour auditor group together *42 different special inspection services*. It may seem a lot but it should be remembered that *61 special inspection services* fall within the jurisdiction of the federal ministries and the Ministry of the Flemish Community alone⁵. In addition to the inspection services accountable to the aforementioned ministries, inspection services falling within the jurisdiction of another community or region, a provincial authority or a municipal administration may also send certificates of offence to the public prosecutors offices under consideration. All three databases include as many as *14 urban, municipal, or provincial inspection services*. They also include *two services forming part of the Brussels-Capital Region*. The total for the three public prosecutor's offices under consideration is *32 different special inspection services accountable to the Flemish Community or a federal ministry*. We may conclude that *many special inspection services* forming part of the aforementioned ministries (61-32=29) in the court districts under consideration *do not use their limited policing powers for reporting*. The same is true of special inspection services forming part of the Brussels-Capital Region, apart from two services. This seems to suggest the need to conduct a further investigation into these special inspection services so as to get a clear answer to the question of whether the limited police powers to issue a certificate of offence having evidential value unless the contrary is proved should be retained.

An examination of the number of certificates of offence sent show that *very many* of the special inspection services under consideration forward *very few* statements. Possible reasons for this are (1) the special inspection services are not able to carry out their monitoring duties properly, so that few offences are reported (2) few offences that may give rise to criminal proceeding are reported; (3) the special inspection services prefer to straighten out situations without resorting to criminal law. The questionnaires reveal that the bulk of the special inspection services interviewed prefer to act this way where possible. However, databases at the Ghent and Brussels public prosecutor's offices *fail* to offer any explanation for why imposing an administrative fine without any action on the part of the public prosecutor's office should result in some inspection services sending less certificates of offence than others. *Most special inspection services using this type of administrative fining system have sent as many certificates of offence to the Ghent or Brussels public prosecutor's offices as other inspection services. They may even have sent more*. The possible concealment of this mechanism by the statistics may be explained by the fact that an administrative fine cannot be imposed unless this is provided for

⁵ DE KEULENAER, S., VAN ALBERT, K., PONSAERS, P., *Wegwijzer Bijzondere Inspectiediensten*, Maklu, Antwerpen/Apeldoorn, 2003, pp. 175.

by the legislation being violated. In the case of some offences, a certificate of offence invariably has to be sent to the public prosecutor's office, as there is no scope for an administrative processing procedure.

An example of how the total number of cases in the various public prosecutor's offices are dealt with shows that pro rata, the Ghent public prosecutor enters the *least nolle prosequi*, that is, **33.3 %** (305 out of 915 cases). The percentage of *nolle prosequi* at the Brussels public prosecutor and the Charleroi labour auditor is almost twice as high: **60.4 %** and **55.2 %** respectively. *The Ghent public prosecutor therefore appears to prosecute infringements of special criminal legislation more than the other offices*⁶. A consideration of public prosecutor's activities in the broad common criminal law ⁷ sense has shown in the past that the public prosecutor's *general policy is focused on nolle prosequi*: the average number of cases closed without any follow-up appears to be in the region of **74.0 %**, which is much higher than the number reported in the case of *special* criminal legislation. This may be due to the high number of unknown offenders or other "technical" reasons for dismissals in the context of general criminal cases.

As for the motivation for *nolle prosequi*, our survey reveals that instances of *nolle prosequi owing to political considerations* are most often reported. In the Ghent and Brussels public prosecutor's offices as well as at the Charleroi labour auditor, this is the most common motivation. Examples of *technical nolle prosequi* are almost unheard of in the case of the Charleroi labour auditor. Scope for imposing an administrative fine is, on the other hand, a key reason for the labour auditor refraining from initiating criminal proceedings. At the Ghent and Brussels public prosecutors, this is rarely or never a reason cited lodging a *nolle prosequi* and in the case of technical *nolle prosequi*, the most frequently reported reasons are "lack of evidence", "no offences", and "unknown offender".

Our survey also shows that the percentage of settlements and the percentage of judicial decisions were at their highest in the court district of Ghent: **14.8 %** of cases were taken into consideration for a settlement and **8.8 %** of cases gave rise to a judgement or a ruling. The percentage in Brussels turned out to be quite low. Only **2.1 %** of cases resulted in a judicial decision and the same percentage of cases were taken into account for a settlement. As for the Charleroi labour auditor, a settlement was proposed for **9.3 %** of cases and a judgement was handed down for **6.7 %**. The highest number of both prosecutions and special criminal law enforcements is reported in the court district of Ghent. *A comparison of these figures leads to the conclusion that prosecution policy and sentencing policy may differ quite considerably under the heading of special criminal law.*

An examination of *the follow-up of the cases with a distinction being made according to the special inspection service*, fails to reveal much information about the Ghent and Brussels public prosecutors. Too few initial certificates of offence have been sent by the various special inspection services to be able to draw any conclusions about the present prosecution and sentencing policy. There is a slightly higher number of cases at the Charleroi labour auditor and there is apparently more focus on cases originating with the inspectorate for social law and terrestrial transport than those hailing from the national employment office.

Consideration of *the cases are group according to policy areas* solves the problem of small numbers for the Ghent and Brussels public prosecutors. Each of the two public prosecutor's offices have five groups: a "medicines and narcotics" group, an "environment" group a "farming and nature preservation" group and a "land and town planning" group. The Ghent public prosecutor has a "public health" group and the Brussels public prosecutor a "economic activities" group. *An examination of the*

⁶ Caution should be exercised when considering this assertion, because the Ghent public prosecutor is responsible for the largest number of cases for which the final decision is not known. The fact that the final decision is not known suggests that the percentages for *nolle prosequi*, settlements and judgements may actually be higher than reported here. In other words, there are more chances of the percentages for *nolle prosequi*, settlements and judgements being higher in reality at the Ghent public prosecutor's office than at the Brussels public prosecutor's office or the Charleroi labour auditor.

⁷ FIJNAUT, C., VAN DAELE, D., PARMENTIER, S., *Een openbaar ministerie voor de 21^{ste} eeuw*. Leuven, Universitaire Pers Leuven, 2000, p. 85-97.

*group-based processing of cases*⁸ points out that the Ghent prosecutor's office apparently prioritises "public health" cases. The dioxin-in-food scandal and other crises have certainly played a role in this respect. Cases involving "farming and natural preservation" and "the environment" are more often prosecuted than cases concerning "medicines and narcotics" and cases involving "land and town planning". *The latter issues are therefore treated as lower priorities.* It is difficult to say what issues are given priority treatment at the Brussels public prosecutor. This is because the percentage of nolle prosequi is very high in all the groups. The lowest percentage of nolle prosequi focused on the "economic activities" group and the "farming and nature preservation" group, which implies that the Brussels public prosecutor pays more attention to these matters than others.

3.4. Overlapping legal powers

Our survey highlights how very many special inspection services have *jurisdiction in a same piece of legislation or an issue* at the same time as another inspection service. In the case of the Ghent and Brussels public prosecutor's offices, two-thirds of regulations that are monitored by several special inspection services deal with public health and environmental issues. These regulations are all managed by 27 different services. In the case of these policy areas, *powers shared* by the special inspection services *tend to overlap to a great extent.* In the case of the Charleroi labour auditor, the social security laws inspectorate, the social inspectorate and the national employment office have the main joint responsibility for the same regulations. As a result of this situation, there have to be *smooth channels of communication* between the special inspection services so as to avoid any duplication of work. It also raises questions about the justification for *merger operations* (between the various inspection services).

3.5. General police services and special criminal legislation

A comparison of prevention codes featured in the database of the special inspection services and ordinary police services at the Ghent and Brussels public prosecutor's offices shows that the ordinary police services are active in the field of special criminal legislation to a large extent. In the case of a large number of prevention codes, the *general police services have drawn up more certificates of offence than the special inspection services.* The main differences are reported for prevention codes dealing with issues discovered in the wake of complaints. *As for employment, the special inspection services are apparently more active than the general police services.*

In the case of the public prosecutor at the Ghent court of first instance, there is a striking difference between the system for dealing with cases originating with the special inspection services and the one for addressing special criminal legislation cases originating with the general police services. *More judgements are handed down and more settlements are proposed for cases that originate with the special inspection services.* Few differences are reported in the case of employment-related matters.

As for the reason for nolle prosequi, there are few *differences between the reasons* the Ghent public prosecutor gives for entering a nolle prosequi irrespective of whether a case is sent by a special inspection service or a general police service. However, there are quite significant differences when it comes to the Charleroi labour auditor. *There are reported to be several instances of technical nolle prosequi for cases originating with the general police services. This applies in particular to the "no offence" procedure.* As for cases from the special inspection services, the political consideration most often used to establish guidelines refers to "disproportionate consequences in respect of criminal prosecution-social unrest" and "administrative fines".

We do not think it would be possible for the *integrated inter-police criminal statistics (SCII) to be amplified* by adding the certificates of offence of the special inspection services to crimes recorded by the police. Special inspection services operate on too wide a scale which makes the gathering of information by these existing services difficult. Nonetheless, steps might be taken to create a separate

⁸ Under this heading a number of cases provided are not taken into consideration (the public prosecutor's office is not competent), along with the missing information (final decision on the cases are not known owing to information or joined cases).

database for special inspection services. The intelligence gathering required for this exercise should be focused on the public prosecutor, in our opinion, as all the certificates of offence are centralised there. This means infringements would be qualified on the basis of prevention codes. In the SCII, the nomenclature is used to qualify infringements. The two files will have different ways of qualifying infringements, so it will not be possible to compare the two sets of statistics. The advantage of having a separate database for special inspection services is that it will provide a means of illustrating some of the recorded crime.

4. Policy proposals

We see a need to reduce the special inspection services to a reasonable size. This can be achieved via mergers. In the case of public health, a merger has already been achieved in Belgium by creating a federal food safety agency. This agency brings together federal special inspection services without affecting urban and municipal services involved in this policy area. A merger between the medical and technical inspectorates is on the cards as part of the Copernic reform process. We recommend undertaking further mergers on top of the ones that have already been completed. Under this heading, our thoughts turn to areas where the special inspection services jurisdictions overlap: employment and the environment. In the case of employment policy, the social inspectorate, the social security inspectorate and the national employment office could be merged and on the environmental front it is advisable to merge the inspection services accountable to the communities and regions and provincial, urban and municipal special inspection services.

It would also be a good idea to present certain special inspection services as research services granting them the status of judicial police officers. Services that might qualify for this status include the customs and excises administration, the social legislation inspectorate, the social inspectorate, the environmental inspectorate and the Flemish Public Waste Agency (Ovam). Granting these entities the status of judicial police officers would clarify the relationship with the public ministry. The latter could then apply a crime policy to areas where the relevant special inspection services operate. Theoretically, the public ministry will not be able to seek any special inspection services in 2003 unless they have the status of judicial police officers. This is pursuant to article 28 ter §§ 3 and 4 of the criminal justice code. However, in practice, special inspection services without judicial police officer status are also being requested by the public ministry, and these requests are being granted as well. In order to overcome the shortcoming, it is advisable to adapt this article so that entitlement to make such applications may also apply to special inspection services without police officer status.

Special inspection services that are presented as research services would be managed by an operational public ministry, in keeping with the model used in the Netherlands. This operational public ministry not only heads special inspection services, it is also in charge of the prosecution of the offences reported by these services. We feel the operational public ministry should also be responsible for prosecuting offences reported by other special inspection services. The advantage of this approach is the operational public ministry is able to specialise in special criminal legislation. It will also mean that infringements of special criminal laws no longer compete with common law offences in the context of criminal prosecutions. In order for this approach to bear fruit, judicial and prosecuting officers also have to be sufficiently acquainted with special criminal legislation.

As for administrative processing, we recommend retaining a single procedure for imposing an administrative fine: the procedure where a special inspection service may impose a fine without the involvement of the public prosecutor. We prefer this procedure because the public ministry's workload is already heavy enough and criminal law should be used as an *ultimum remedium*.

The in-depth interview revealed a wide range of administrative processing procedures that vary widely from one inspection service to another in terms of implementation. In order to improve the transparency of the administrative action taken by special inspection services and increase the user-friendliness of the procedures for the special inspection services, consideration should be given to the scope for harmonising the administrative process. An investigation should also be conducted to see if

the present administrative procedures (particularly administrative fines) may be extended to other laws.

A final recommendation, which also applies to administrative processing procedures, reflects the discovery that alongside the special inspection services, general police services are heavily involved in the field of special criminal legislation. Administrative processing is possible only when an offence is reported by a special inspection service. An offence reported by the general police services may be dealt with only on the basis of criminal proceedings. This different approach raises question about the equality of citizens before the law. In order to guarantee equal legal rights for citizens, it is best to ensure that if the special criminal law that has been infringed provides for administrative processing, this should invariably be applied irrespective of the reporting authority.