Summary

Background

From 1994 onwards most traffic violations in the Netherlands are settled under the Administrative Enforcement of Traffic Regulations (*Wet Administrative Handhaving Verkeersovertredingen,* hereafter: Wahv), rendering criminal law in many cases obsolete. In the event of non- or incomplete payment of sanctions the Act provides a number of measures for the coercion of those involved to complete payment. One of these consists of decommissioning a vehicle (*buitengebruikstelling* or BGS) in order to stimulate payment of a sanction, if other measures (in the collection- or recovery-phase) have been exploited to no result.

As of July 1st, 2011 the scope of Wahv has been widened. On that date article 30, clause 2 of the of the Civil Liability Insurance (Motor Vehicles) Act (*Wet Aansprakelijkheidsverzekering Motorrijtuigen*, hereafter: WAM) was placed under the Wahv, thus placing violations of the obligation to insure vehicles under administrative enforcement also. This has been termed "verMuldering" ('Mulderization')of WAM. The objective is to lighten the burden on the criminal justice system and at the same time, through increased checks and heavier sanctions, reducing the amount of uninsured vehicles.

Motivation

The number of uninsured vehicles has gone down drastically after 2011, dropping from 240.000 vehicles in 2011 to approximately 40.000-50.000 vehicles in 2015. The 'Mulderization' of WAM has exposed and exacerbated preexisting issues, regarding the decommissioning of vehicles (BGS) especially. A minority of orders given actually lead to vehicles being taken out of operation or payment of the relevant sanction. In 2010 35% of BGS-orders produced one of these (positive) results, opposed to 23% in 2015.

The governing entities of the Ministry of Security and Justice vowed to parliament in 2015 to ensure greater insight into the effectiveness of decommissioning vehicles as a measure of coercion. As a result the WODC has requested APE to research fifteen possible short-term solutions and make suggestions regarding more durable means of coercion.

Problem definition

Analysis short-term measures
1. Which aspects of the BGS-process do the suggested improvement measures influence and are they likely to contribute to the attainment of the goals regarding the decommissioning of vehicles, namely successfully processing as many orders as quickly as possible to a positive result? Positive result in this respect meaning either payment of the relevant sanctions or the BGS-orders being carried out in practice.
2. Wat are the possible side-effects of the proposed measures?
3. How will changing the measure affect the chain and its input, throughput and output of cases?
4. What are the costs involved in the measure and how do they compare to the benefits?
5. Which of the fifteen measures suggested by the Ministry of Security and Justice are worth implementing, taking into account the stated goals, additional costs and possible undesirable side-effects?

Implementation of durable means of coercion
6. Is the implementation of means of coercion (and recovery) as currently done by those involved adequately efficient? If not, what are the main bottlenecks or stumbling points?
7. What adjustments and alternatives would contribute to the improved functioning of the process in the phase of coercion, given the quadrant model? (for instance, in the order of actions taken for different target groups)
8. Which organization is best equipped to execute which measure of coercion (in accordance with the aforementioned goals)?

Approach

Analysis of short-term measures
In order to determine whether BGS can be used more efficiently, the way in which the suggested measures fit into the existing structure must first be examined, as well as the possible effects they may have on the execution of BGS-orders. Three stages of research have been set out to that effect:
1. Description of the BGS-process;
2. Quantitative analysis of the BGS-process;
3. Analysis and evaluation of improvement measures.

Implementation of durable means of coercion
This part of the research means to distinguish the foundations of alternate approaches to the issues of the phase of coercion. This regards both adjustments to

the existing system as well as new (tailor-made) instruments. In order to do so interviews have been conducted with the different actors of the chain. An expert meeting has also been held with experts in law and experts from the practical field, to incorporate their thoughts on preliminary approaches.

Description of the BGS process

BGS, the decommissioning of a vehicle as a coercive measure, is put into action after the collection- and recovery-phase have failed to achieve compliance. It is possible to set out the process and the successive steps of action into four phases:

1. Assessment and order;
2. Payment after receiving the letter 'Warning for the prevention of BGS';
3. Execution of BGS;
4. Taxation and sale vehicle.

The BGS-process in numbers

In the initial collection-phase the cases concerning uninsured vehicles (WAM-30) only make up 2% of the total Wahv-input. Because the collection ratio of these cases is a lot lower in comparison to other cases that fall under Wahv, they have made up on average 25% of cases falling under Wahv that reach the BGS-phase in the past few years. BGS-orders tend to run for a relatively long period of time, have little throughput and a low rate of successful completion. On average 20% of cases result in payment. Moreover, very few BGS-orders lead to the actual taking out of operation of the relevant vehicle (4%). In practice, the majority of BGS-orders (about 60%) turns out not to be enforceable due to those involved not being in possession of the vehicle in question or not living where they are registered.

Of the decommissioned vehicles, 67% is towed to 'Domeinen' (State Property Department). The vast majority of these vehicles is subsequently destroyed, as their estimated value is low.

Most of the costs the BGS-process incurs are caused by the police work needed in order to find and remove vehicles. An input of 200.000 BGS-orders per year incurs €29,5 million in costs for the police. An estimated €7,5 million of these costs are due to BGS-orders given under WAM (concerning uninsured vehicles).

Analysis short-term improvement measures

A bottleneck analysis from 2015 provides fifteen improvement measures for the BGS. These can be grouped into five categories:

1. Improving communication throughout the chain
2. Actively preventing (an increase of) sanctions
3. A more personalized approach
4. Simplifying logistics
5. Alternatives in executing BGS

Solutions in these categories are thought to contribute to increasing the effectiveness of the BGS, completing as many orders as quickly as possible to a positive result. The scope of the fifteen measures differs. Some measures target only WAM30-cases, others apply to all Wahv-cases and yet others target the entire process as carried out by the police. The measures also differ as to where, in what phase, they come into effect. Most measures target the coercion-phase of BGS. Others are oriented more broadly and also affect other phases of the process. Finally, the measures differ regarding their target population. Given these differences in scope, points of engagement and target population, an analysis of the effectiveness of the measures requires a very detailed image of the costs and running-time of the processes executed in the coercion-phase. During the research-process it has become apparent that the extensive data necessary for creating this image is not available to a sufficient amount. For all phases in the chain of execution the costs per case or step of the process have proven difficult to define.

In this respect the development from 2015 onwards of a large number of other measures, aimed at a more personalized approach and socially responsible collection of sanctions, has been of influence. These are primarily aimed at the collection- and recovery-phases, but their effects do influence the input, throughput and output of the coercion-phase.

It is possible, however, to assess the proposed measures by using a qualitative method. It has been determined that the majority of costs in the BGS-phase fall to the police and the State Property Department. Especially measures with a broad scope, targeting the processes regarding execution as done by mostly the police and State Property Department, will therefore be potentially effective.

The analysis shows that not all measures are suitable for implementation in the short-term. Some measures require a longer implementation period, for instance because a change in legislation is necessary. A limited number of the measures targets violations caused by owning an uninsured vehicle (WAM30). Most of the measures target the Wahv in its entirety.

The potential effect the measures could have on positive results is larger as the scope is wider (including Wahv entirely), as a larger portion of BGS-input is reached (the initial phases of the BGS-process) and as more target populations are included that are currently out of reach (such as those not in possession of

the vehicle or that are registered at another address). The analysis shows that only a limited number of measures has this potential.

This does not mean to say that the other measures do not carry meaning. Some of the measures would have a lowering effect on BGS-input and/or would stimulate throughput in the BGS-phase. This serves the efficiency of the BGS-process.

Long-term solutions

In formulating suggestions for the collection of administrative sanctions a so-called quadrant model has been used for reference. The quadrant model is a theoretical model for the collection of financial sanctions used by the CJIB (Central Judicial Collection Agency). A distinction is made between types of debtors when implementing measures for the collection of financial sanctions. The distinction is made whether someone is unable or unwilling to pay the sanction. These are placed as variables opposite one another, thus forming the quadrant. Inside the quadrant the different types of debtor exhibit different behavior regarding payment. Based on the model every type of debtor is dealt with differently by the authorities, the approach tailor-made to his or her situation. This can range from stimulation and support to coercion, depending on the debtor's position in the quadrant model.

For the purpose of formulating suggestions, a few exit points are set out first. For the collection of financial sanctions the following point of reference has been adopted: financial sanctions are to be paid, yet in a way that is effective and appropriate, as well as accurate and well-balanced. Subsequently, a number of suggestions are made for the collection of administrative sanctions for each quadrant.

- First quadrant (willing/able): For this group the payment method could be improved, for example by expanding the options available for payment to include mobile payments and improving the information services on paying administrative sanctions through a portal for citizens at the CJIB. The effectiveness in this quadrant could also be improved by systematic checks on whether sent decrees have arrived at the proper address.
- Second quadrant (willing/unable): In this quadrant personalized support is the central point, working with the willingness and (step by step) removing the inability to pay. Ideally this would happen as early as possible in the collection-phase, stopping these cases from advancing to the recovery- and coercion-phases.
- Third quadrant (unwilling/able): This quadrant centers around strict enforcement, actual coercion to ensure payment of administrative sanctions in order to break down the unwillingness. This is justified, as this quadrant consists solely of the remainder of unwilling subjects.

- Fourth quadrant (unwilling/unable): Firstly this quadrant centers around removing the inability to pay, just as in the second quadrant (willing/unable). If those involved subsequently continue to refuse payment, the same, hardline, approach as in the third quadrant follows.