

European influence on Dutch legislation in the past 30 years

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1 Introduction

In the government's declaration of the policy the cabinet in the Netherlands has indicated that deregulation is of great importance. They wrote: *'the bureaucracy takes the professionals initiative away. We ended in a spiral where every problem and incident results in new rules that cause on their turn their own problems. (...) The government should reconsider its own functioning. It is an illusion the government can take away all risk and inconvenience. We should resist the urge to answer every incident with legislation. Fewer pretensions in policy, but fulfilling these pretensions. Less rules, but real enforcement. The cabinet will more often make an appeal to the awareness of responsibility and citizenship'* (government's declaration, 11 June 2003). In these days our national government aims for less legislation. The annual legislation has to decrease and also the stock of current rules has to be cut.

Caused by obligations to inform the government (especially in the domain of wage tax and industrial accountancy) the Dutch trade and industry is confronted with a burden of red tape of 12 billion Euros (Nijsen, 2004). Since the end of the nineteen seventies, the government has worried about the huge amount of rules and all cabinets since that time have taken action to reduce this number. In spite of several deregulation campaigns the number of rules did not decrease (Ministry of Justice, 2004; 1-2). The goal of the present cabinet is to reduce the costs of red tape with 3 billion Euros. In the year 2004 the separate ministries announced plans to deregulate. On the field of education, spatial planning, health care, agriculture and trade and industry the national government has started a campaign to diminish contradictory and redundant legislation. On some governmental internet sites people are invited to lodge their own proposals for deregulation.¹

Not only new laws have a negative impact. Research shows that a high change-rate of laws and other rules result in important uncertainty for civil servants, the trade and industry and civilians (Marseille, 1993, Herweijer, 1994, Winter, 1996).

The Netherlands Council of Audit (the 'Algemene Rekenkamer') notices that many laws are ineffective and that many rules are not enforced by the government. The Netherlands Scientific Council for Government Policy ('Wetenschappelijke Raad voor het Regeringsbeleid', WRR) supposes that an important factor in the lack of enforcement is the surplus of rules. Besides this the WRR supposes that the overproduction of national rules is for an important part caused by the *implementation of European legislation* (WRR, 2002, p. 69-70). And in its white note 'a practical legal system' the Ministry of Justice states that *'yet, international law, both the treaties and conventions and the European directives and*

regulations also constitute an independent source of the increase of legislation' (Ministerie van Justitie, 2004; 5). They state that *'there are hardly any set of rules that is not branded by, or bears the marks of, European legislation or other international treaties, in one way or the other'* (Ministerie van Justitie, 2004; 11). According to the Ministry of Justice this has two consequences. Firstly it limits the possibilities for changing national legislation since the state is bound by European directives, European regulations and the premises of primary law, as set out in the EU Treaty and the outcome of the negotiations on which it was based. Secondly, the growing importance of European legislation should be a reason to work at the European level on a legislation policy (Ministerie van Justitie, 2004; 11).

These perceptions are caused by the widespread idea that 60 to 80 percent of our national legislation originates in Brussels (see for instance: WRR, 2002, p. 68, a good overview in Bovens and Yesilkagit, 2004). Recently Atzo Nicolai, the Parliamentary undersecretary of foreign affairs in the Netherlands, has estimated the amount of new rules which bare the marks of European legislation at approximately 60%.²

There are at least two problems with these 60 to 80 percent estimations. The first is that in order to calculate a percentage one should define exactly what European regulations are taken into account in the numerator and what national rules are taken into account in the denominator of the fraction. When these estimations are made it is usually very unclear what is exactly meant with 'marks of', 'branded by' or 'influenced by' European legislation and which types of national rules are taken into account. The second problem is that these estimations are not based on any empirical evidence.

If we want to know the influence of the European Union on our national legislation the first question to answer is what is meant by 'influence'. It is clear the European Union has influence through the implementation of its legislation by the member states. Cini (2003) identifies three types of implementation. The first is direct implementation of regulations and treaty provisions. The second is indirect implementation of directives, and the third is executive rule making by the Commission.³ Direct and indirect implementation are forms of top down regulation and have a quite clear influence on the national legislation.⁴ There are however other types of European influence that are more indirect and therefore much harder to identify. For example the case-law by the European Court can't be marked as legislation, but it is clear it limits the legislative freedom of member states. Another example is the influence of agreements made in bottom up procedures as the open co-ordination procedure. The exact influence on the national legislation is hard to tell but is certainly there. There is a

sure influence of European policy and European treaties. The influence of European policy can be very ‘soft’ and is often difficult to identify. Many European values, norms and principles can be internalized by legislators completely. It might affect their thinking in a way that can’t be identified in the national legislation any more. These examples show that when it’s not clear what is meant by ‘influence’ any estimation of any percentage is meaningless. In this paper we will search for clear evidence of European influence on Dutch legislation. Therefore we will identify implementation and other references to *European directives* and *European regulations* in national legislation.

The other part of the ratio is the denominator. This is the number of national rules. When we assess the complaints about our regulatory system of ineffectiveness, lack of enforcement, high administrative costs, inconstant and probably overproduction, it is remarkable how little we know about the exact amount of rules on the national level. Until recently we didn’t know how many times a law – during its unknown duration of life – was changed. And if we did not even know how many national rules exist, so how should we have known that 60 to 80 percent of our legislation can be attributed to European legislation? Before we can answer the question what quantitative impact European legislation has, we first have to learn how many national rules there are and how this amount has developed over time.

A few investigations on the European influence on the Dutch legislation have been carried out before (De Jong and Herweijer, 2004; Bovens an Yesilkagit, 2004, Voermans, 2004; Van den Toorn and Wieringa, 2003). One of the problems of these researches is that they only pinpoint the impact of European directives at a certain moment in time. The years studied might be exceptional. Apart from this problem of generalization, it is far more interesting to see how the European influence has *developed over time* than establishing a percentage in one single year. Is the influence from Brussels increasing? And what might be the causes? In this paper we are looking for trends over a longer period of time. In this context four questions will be answered:

- How many new national rules and changes in rules are added annually to the stock of current rules in the last 30 years?
- How has the ratio of national rules influenced by European directives and regulations developed in the last 30 years?
- What is the expire rate of national rules?

- Does the influence of Europe by directives and regulations accumulate in the stock of current national rules?

European directives can be implemented by several types of national rules. In the Netherlands there are various types of rules which vary in legal status. This legal status depends on the official body that enacts the binding norms. When the parliament enacted the rule we call this a *law*. To inflict punishment and taxes by a legal authority a foundation in a law is needed according to our constitution (the principle of legality). There are also rules with a lower legal status. An *order in council* is drawn up by the cabinet in a somewhat quicker and simplified procedure. *Ministerial rules* are limited to a specific field of policy. They are enacted by the entitled minister in a very quick and simple procedure. We will call all three types added *rules*.

If we want to have a good insight in our national rules we should not only study the quantity of laws. We also have to take into account national rules with a lower legal status. In this paper we will study laws, orders in council and if possible ministerial rules. Each of these types of rule can cause obligations and administrative costs for civilians, trade and industry.

2 How much do we know?

Many politicians and experts 'know' that 60 to 80 percent of our legislation is influenced by Europe one way or the other. Until recently there was hardly empirical research on the origin of our national legislation. In Denmark recent research showed a much lower influence of European directives on their national rules (Blom-Hansen and Christensen, 2003). At the policy area with the highest influence of Europe – agriculture – only 23% of the rules were the result of implementation of European directives. British research showed a similar pattern of European influence on the British legislation (Page, 1998).

For this reason we made an estimation of the quantitative impact of the implementation of European directives on the Dutch legislation. Four times a year the ministry of foreign affairs presents a clearly structured summary of the implementation of directives to the parliament. This summary gives an overview of how many directives should have been implemented as well as how many directives have been implemented. These summaries do not show how many rules have been changed as a result of implementation of European directives.

Each year there are on average 84 European directives implemented. The implementation summaries make clear that implementation is done by *changing* existing rules

as well as by the enacting of *new* rules. European directives can be implemented in laws, in orders in council and in ministerial rules as well as in covenants, decentralized rules, etc.

To get a first raw estimation of the impact of European directives on the national rules we made the bold assumption that every implemented directive would result in the change of one rule. We divided the number of directives by the amount of new and changed rules that came to force every year (on average 14999 rules). The percentage implemented European directives – assuming one change per implemented directive – is about six percent of the total number of new and changed rules (laws, orders in council and ministerial rules) (De Jong and Herweijer, 2004).

Bovens and Yesilkagit (2005) criticized our method rightly as too rough. In their research they took the European directives as a starting point and measured how many rules were changed or replaced to implement those directives. They conclude that in the Netherlands 12.6% of the production of laws, 19.7% of the production of orders in council and 10.1% of the production of ministerial rules is the result of implementation of European directives. In total about 12.5% of the new or changed national rules in the Netherlands contain traces of implemented European directives.

Van den Toorn and Wieringa (2004) published an internal report for the ministry of Justice in where they tried to establish the quantitative impact of European directives. They had a very different approach. They scanned every individual Bulletin of Acts in the parliamentary year 2002 – 2003⁵ for references to European directives and concluded that 7.1% of the laws and 15.6% of the orders in council were influenced by European directives. These figures are somewhat lower than the results of Bovens and Yesilkagit, possibly because the legislator might not register all European influence consequently in the preamble or the text of the rule.

Although the investigations determine only ‘indirect implementation’ (following the definition of Cini in section 2) it is clear that these percentages do not even come close to 60 or 80 percent. To carry out more research on this topic we will make a reconstruction of the influence of European directives and regulations on the Dutch legislation in the past 30 years. We made use of several sources of data.

3 Research method

In the recent past it would take an extensive historic study of literature to answer questions about the quantity of rules in the Netherlands. The oldest rules in the Netherlands exist since 1813; the year the Netherlands were founded.⁶ To create a complete overview of all current

rules we should look back in time for a long period. Rules in the Netherlands come into force after publication. There are two important magazines in what rules are published. For studying laws and orders in council we should study the 'Bulletin of Acts'. Ministerial rules are published in the 'Government Gazette'. We should also be beware of the fact that laws are changed every now and then and that laws do expire.

Since 2003 the complete stock of current rules on the national level is digitally available on the internet site www.wetten.nl. The production of new rules and altered rules are available since 1995 in this database. The database of www.wetten.nl is based on a card-index administered by the ministry of Justice, which gives the most complete image available of the Dutch laws and orders in council. Bulletins of Acts are digitally available on the internet site www.overheid.nl. It is possible to search for information in the text digitally. The availability of these digital databases gives new opportunities for quantitative research on the production of rules in the Netherlands.

To get an estimation of the relative influence of European directives and regulations on the national legislation over a longer period we electronically scanned the Bulletins of Acts in the internet database of www.overheid.nl. This was possible for the last ten years (1995 – 2004). In the years before 1995 we physically scanned a sample taken from the Bulletins of Acts every four years. By doing so we could get insight in the quantitative development of the actual influence of European directives and regulations on laws and orders in council from 1976 until 2004. The year 2003 is also physically scanned in order to check the results and to collect some more specific data.

The use of Bulletin of Acts in this research has an important advantage over searching in an online law-database like Voermans (2004) did, especially when studying rules that have been changed. By scanning the Bulletin of Acts European influence is only taken into account if it is mentioned in the sections of the rule that actually have been changed. By searching a law-database not only the altered sections, but the whole rule that has been changed is scanned. So the influence of European directives and regulations of earlier changes of the law that is changed would pollute the results. This could easily lead to an overestimation of European influence. The disadvantage of the use of Bulletins of Acts is that ministerial rules are not published in them. So we have only results on laws and orders in council.

4 Context: the production of national rules

4.1 Production of laws

Before we can answer questions about the influence of European directives and regulations we should have insight in the quantitative development of our national legislation. First we will take a closer look at the production of national rules. The total *production* of rules consists from completely *new* rules and (minor) *changes* in existing rules. For laws over a period of almost 40 years this annual production can be traced. We have made use of data from the Senate. The Senate registers from 1967 how many legislative proposals are accepted.

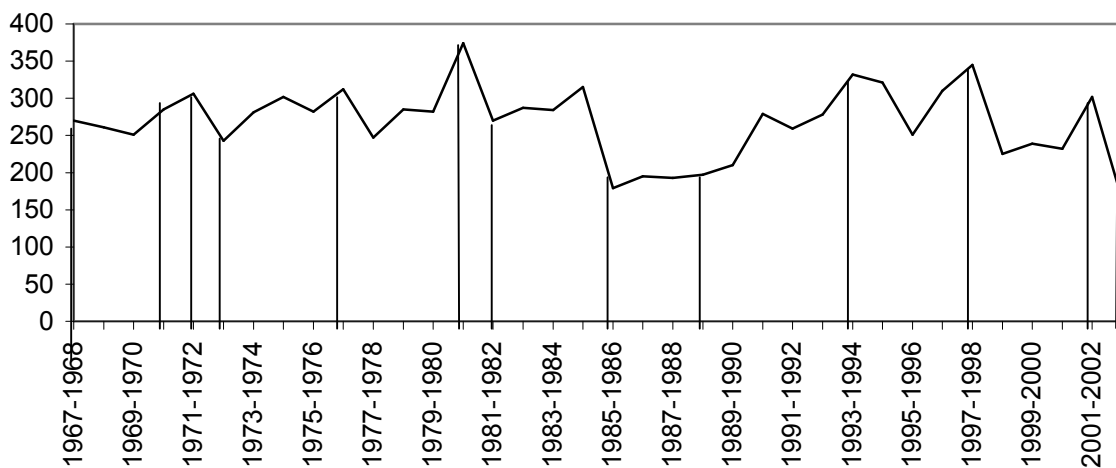


Figure 1: Number of accepted bills in the senate since 1967; the vertical lines represent changes of the cabinet.

Figure 1 does not show an increase in the production of laws. The production fluctuates from one year to another. We can distinguish a cycle of approximately four years. At the beginning of a period of a cabinet the production of laws is relatively low. The legislation increases during the four years a cabinet governs.⁷

4.2 New rules

The senate doesn't have to decide about orders in council and ministerial rules. For this reason there is no information on these types of rules in figure 2. Over a shorter period, however, we could collect information on all three types of rules. Figure 3 shows this information.

The production of new laws and new orders in council fluctuates around an average of 86 new laws and 128 new orders in council a year. There is no increase in the production of these new rules. There is however a steady increase in the number of ministerial rules since the year 1984.

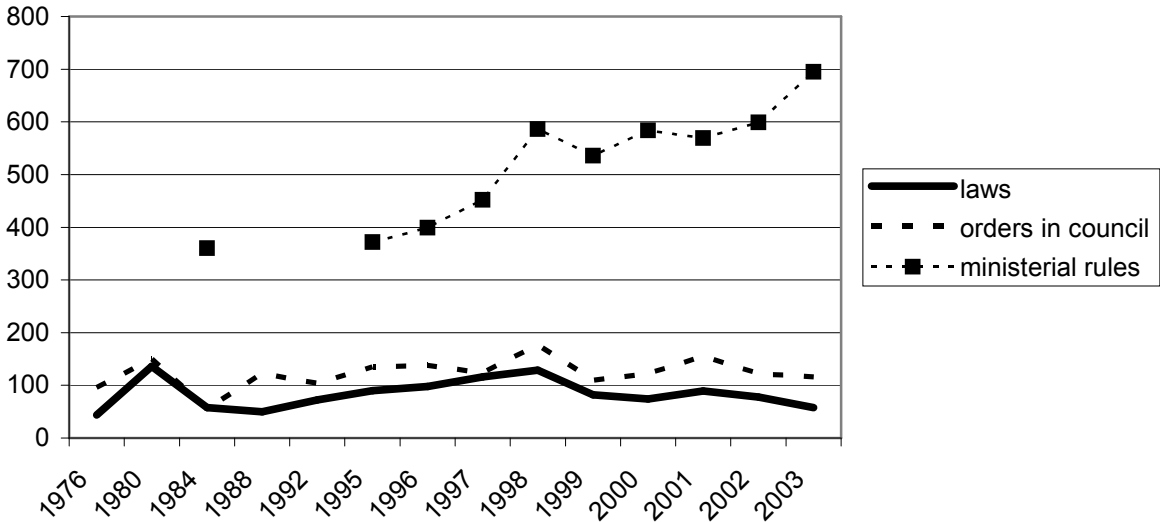


Figure 2: New rules since 1976

The Ministries of Justice, Foreign affairs and Finance choose relatively often for regulation by formal law. These differences between Ministries are not completely explained by cultural differences alone. Some ministries, like the Ministry of Justice or the Finance department, have responsibilities for subjects where the need for legislation in laws results directly from the constitution (the principal of legality). Departments responsible for social or economic policy (like the Ministry of Social Affairs and Labor and the Ministry of Agriculture) produce more ministerial rules.

4.3 Changes in existing rules

Except enacting new rules the legislator can also change existing rules. Contrary to the relatively stable production of new rules, here is a trend of an increasing number of rules that are changed. Especially in the years 1998 and 2002 many rules have been altered (figure 3).

Changes do not result in an increase of the number of the current rules. Still those changes in rules can increase the perception of over-regulation for two reasons. The first is that a high change-rate of laws and other rules result in uncertainty for civil servants, the trade and industry and civilians (Marseille, 1993, Herweijer, 1994, Winter, 1996). The second

reason is that those changes result in an increase of the number of sections per rule. When a law is changed there are usually more sections added than replaced (De Jong and Herweijer, 2004).

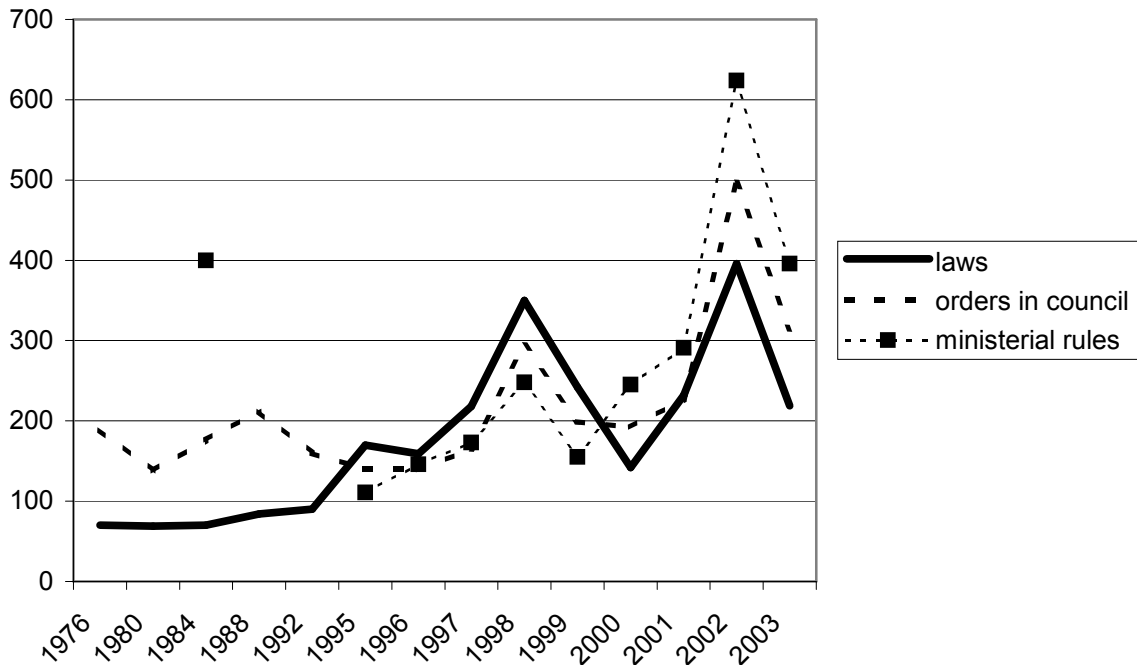


Figure 3: Changed rules since 1976

4.4 Change or replace?

When the annual production of new rules and the changes in rules are added we will get an idea of the total annual legislation. Between the year 1995 and 2003 the total annual production of rules was almost 1500. Every year there are as many new rules (756) as there are changes in rules (742). Each year 236 laws are changed, while 90 new laws are enacted (ratio = 2.6 : 1). Every year 241 existing orders in council are changed and 133 new orders in council are enacted (ratio = 1.8 : 1). The annual change of existing ministerial rules is 265 and the enacting of new ministerial rules is 532 (ratio = 0.5 : 1).⁸

In the ratio between the new and the new and the changed rules is a pattern found. We can summarize this pattern as follows: the higher the legal status of a rule the more often this rule is changed; the lower the legal status of a rule the more often it is replaced completely by another rule.

5 Europe and national legislation

5.1 The number of influenced rules

In the last 30 years the absolute production of laws and orders in council that are influenced by European directives and regulations has increased (figure 4). From the mid seventies to the mid eighties the European influence on the national rules was relatively low. When in 1985 the European Council agreed to the establishment of a single market by the end of 1992 this suddenly changed. To complete this single market harmonization of differences in national regulatory practices was needed. The need for common rules was especially clear in areas such as food standards, industrial property rights, public procurement, technical or administrative barriers to trade, industrial safety and health rules, and rules governing unfair competition (Cini, 2003; 32). The legislation of the European Union increased especially when in the ‘1992 programme’ 282 legislative proposals were made (Cini, 2003; 37).

New European legislation results in implementation in the member-states. So in the years after 1985 the production of national laws and orders in council that were affected by European directives and regulations was increasing rapidly from 18 in 1984 to 147 twenty years later.

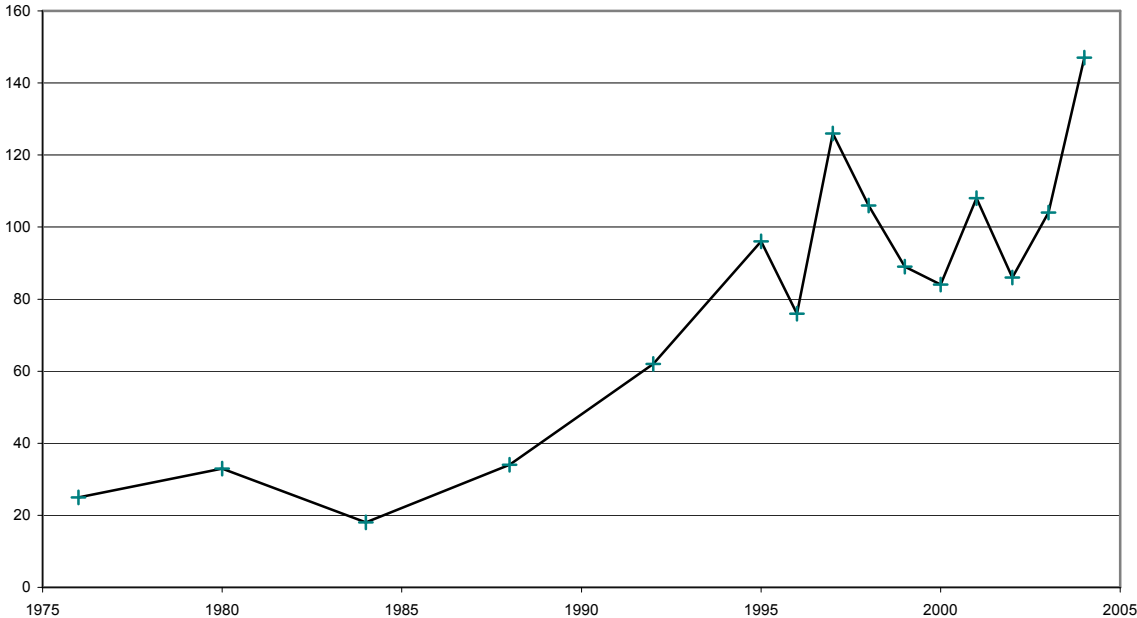


Figure 4: the development of the absolute number of laws and orders in council referring to European directives and European regulations

5.2 The relative influence of Europe

By dividing the rules with a European reference by all rules we can study the *relative* impact of the implementation of European directives and regulations in the national legislation. The relative impact of European directives has increased from about 5% in 1984 to about 15% in the last ten years (figure 5). In the last ten years we measured the percentage references to European regulations every year. A clear influence of parliamentary elections and the implementation productivity of the national legislator are found. In the election-years 1998 and 2002 the implementation-level is significantly lower.

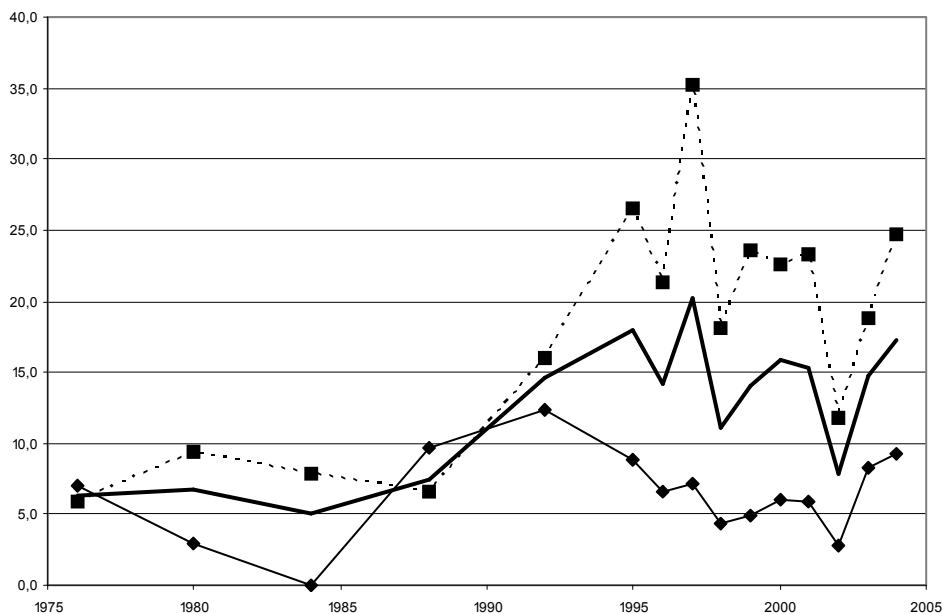


Figure 5: The relative impact of European legislation on national rules.

It also becomes clear that European legislation does not exert an influence on laws and orders in council in the same way. The percentage laws with a reference to European legislation are with 5 to 10 percent relatively constant in the past 30 years. The orders in council tell a different story. In the period of 1987 to 1995 the percentage of orders in council with a reference to European legislation is growing rapidly from less than 10 to over 20 percent. After 1995 this percentage might decrease a bit. This is not because of the decreasing number of references to European legislation (the absolute numbers are still increasing), but due to a higher number of orders in council without any reference. This trend, however, is not very clear yet (figure 5). It seems the European legislation, in order to harmonize the European market, is especially implemented in lower national legislation. This can be explained by the fact that many of those directives contain technical and very detailed provisions. These kinds of provisions are usually found in domestic rules with a low legal status.

Another question is if implementation takes place by making *new* rules or by *changing* rules. Figure 5 showed that around 1987 implementation started to take place especially in orders in council. We can expect that this will have an effect on the implementation in new rules. Figure 6 shows that the percentage rules with a reference to European legislation are increasing for both new and changed rules. From around 1995 this amount as a percentage of changed rules is decreasing while this percentage in new rules does not. This difference can be explained from the preference of the national legislator for implementing European legislation in lower rules. In section 3.4 we noticed that laws are frequently changed, while lower rules are more often replaced completely. Implementation in lower rules results more often in new national rules instead of changing existing ones.

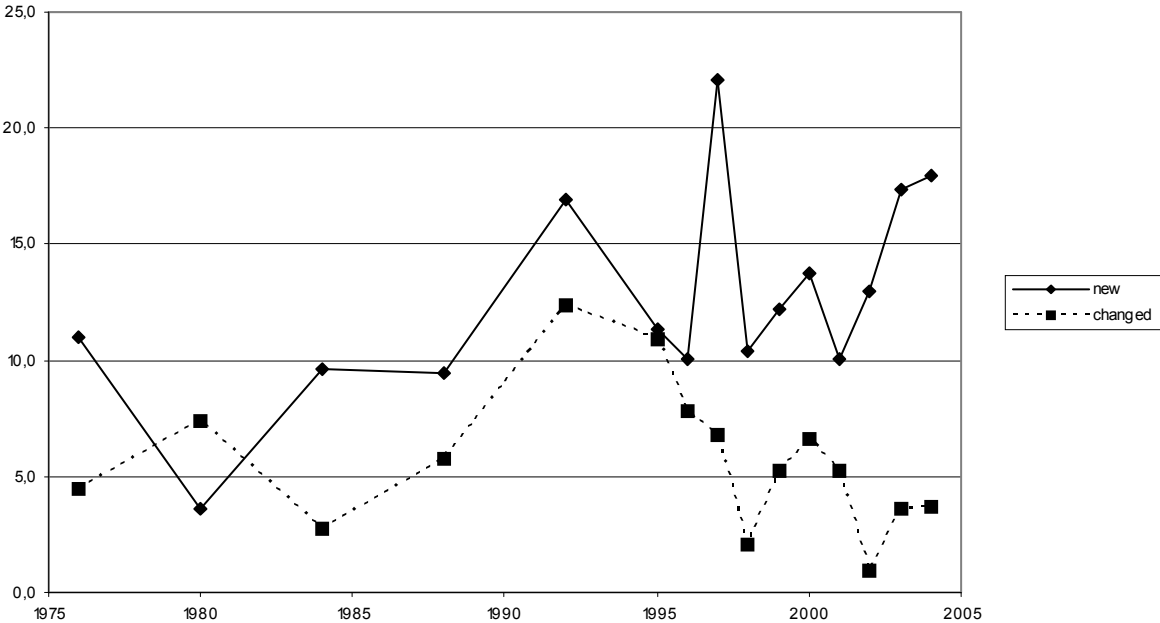


Figure 6: percentage of rules with a reference to European legislation in new and changed laws and orders in council.

5.3 A closer look at ‘influence’

In 2003 104 laws and orders in council were found with a reference to European legislation. In 14.4% of these cases there was referred to European regulations and in the other 85.6% to directives. So directives have – as could be expected – the most important effect on national legislation.

When we focus on the influence of directives on these laws in almost all cases (except one) the law was changed explicitly because a European directive had to be implemented. So

the change of most laws was initiated by the directive. In orders in council this direct influence is only found in 65.6% of the cases. In 19.7% there was a directive taken into account, but the directive was not the reason to make or change the order in council. So the decision to make a new order in council or to change an order in council was made by the national legislator himself. In 16.4% of the cases a new or a change in an order in council was made and before or after publication a procedure of notification was followed. When an European directive, and in some cases an European regulation, is (or in some cases will be) implemented in the national legislation the European Commission must be informed about the regulation in what the implementation takes place. This is also the case when a rule in which an European directive or regulation is implemented is altered. When a procedure of notification is followed, we can assume the legislator took an European directive or a regulation in account in the process of making or changing the rule.

The results in this section indicate that in the history of the European Union its influence never came close to the 60 or even the 80 percent some politicians have estimated. In the last ten years the European Union was the most influential. In those years we found on average only in 6.2% of the laws and in 21.4% of the orders in council a reference to a European directive or regulation. Research executed by Bovens and Yesilkagit shows that higher percentages in ministerial rules can't be expected. They only find 10.1% in this type of rules. When we don't look at the production of national rules, but at the current stock of rules we might find higher percentages due to a process of accumulation. To test this we will discuss in the next section the influence of Europe on the current stock of rules.

6 European influence on current rules

6.1 The number rules

In history there have been made only a few estimations of the amount of laws that were current. In 1980 the ministry of Justice estimated there were 1100 laws in the Netherlands. Eight years later, in 1988, Overhoff and Molenaar counted the number of laws and concluded that there were 1431 laws at that time.⁹ In January 2004 a calculation based on www.wetten.nl made by us resulted in an estimation of exactly 1800 laws (figure 7). From 1980 until now the number of laws has increased with 700, this corresponds with an annual average growth of 2.7%.

The number of current orders in council has increased with 64 in the past 2½ years. In 2004 there were 2675 orders in council and there were 7817 ministerial rules present in the on line database. In this database it is not possible to search before the 1st of May 2002.¹⁰

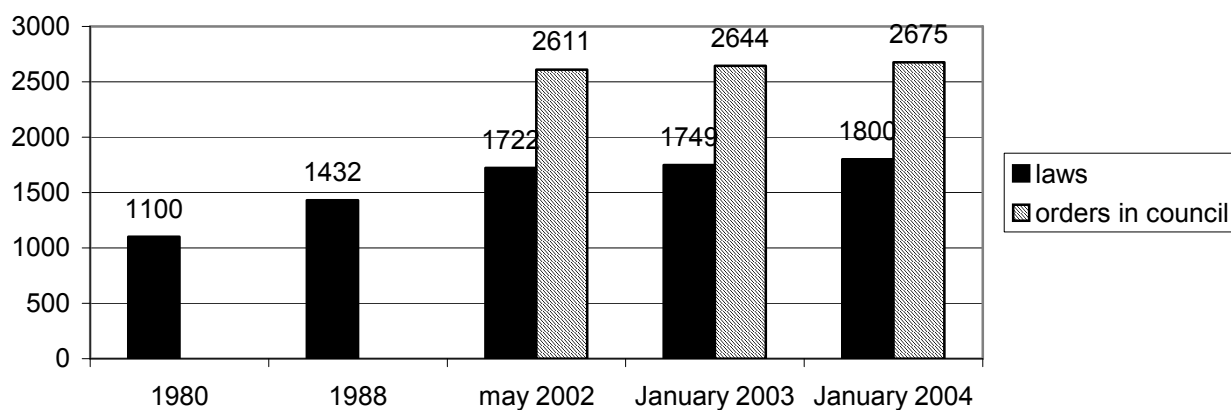


Figure 7: The number of current laws and orders in council at five moments

This steadily growing number of regulations is not caused by an increasing production of new regulations alone (section 4.2), but is mainly the result of the slow expire rate of rules. From all the laws that came into force in 1976 in 2004 only 20 percent has expired. Some laws are able to get very old and some of those monuments of legislation date from right after the year 1813, the moment the Netherlands were formed. Orders in council have a significantly shorter life. From all orders in council that came into force in 1976 approximately 50 percent has expired. The cause of the shorter duration of life of orders in council is found especially in the first 10 years in the life of the rules. In the first 10 years the expire rate increases exponential. After 10 years expiration of orders in council suddenly becomes a linear process that equals the expiration rate of laws.

An explanation for the fact that orders in council don't get as old as laws is that orders in council have a lower legal status than laws. Therefore they are more often completely replaced by another order in council, while laws are more often changed. These results prove the statement that laws are made to last, while lower rules are made to replace.

We can not only determine the legal status of rules, but also their size. Laws are on average larger (26 sections) than orders in council (13 sections) and ministerial rules (7 sections). There are two reasons to suggest that a law will result in a heavier burden on society than an order in council or a ministerial rule; a law has more sections and it has a higher legal status.

6.2 *Accumulation of European influence*

An estimation of the influence of European directives on the current rules can be made by searching for the word ‘directive*’ (‘richtlijn*’) in the online database of www.wetten.nl. At 1 January 2005 there are 1414 rules found containing the word ‘directive*’. A problem is that directives do not solely originate in the European Union. The national government also makes rules which they call directives (richtlijnen). The number of references to national directives in the legislation is, however, very limited. We assume this modest ‘pollution’ of national directives will not significantly bias the percentages of rules influenced by European directives. We can estimate now that 13.0% of our current national rules contain reference to one or more (European) directives. 11.1% of the national laws, 16.8% of the orders in council and 11.9% of the ministerial rules contain a reference to one or more (European) directives. In May 2002 only 10.5% of the current national laws and 15.2% of the orders in council contained such a reference. It seems the number of rules influenced by European directives is accumulating in our national legislation. This accumulation results in a steadily but slowly growing importance of European directives over the last few years.

7 **Conclusions**

Through the years many estimations of the quantitative influence of the EU on the domestic legislation are made. Many politicians and experts claim that 60 to 80 percent of our national legislation is influenced by Brussels. Unfortunately it usually remains unclear what this percentage exactly means (what is in the numerator and what is in the denominator). Recently some investigations were published that give a different view on this topic. In these studies much lower percentages are found and it is claimed that the 80 percent estimations are mystifications.

In this investigation we made a reconstruction of influence of European directives and regulations on Dutch legislation in the past 30 years. We focused on *clear* evidence of European influence. This means we counted the number of national rules with a reference to European directives or regulations. This does not give a total insight in the influence of the European Union on our domestic legislation. However, when we have an overview of 30 years of clear European influence some interesting results are found. These results are presented in the context of 30 years of development of Dutch legislation.

The annual amount of laws and orders in council that are added to the stock of current rules in the Netherlands fluctuates, but did not increase in the last 30 years. In contrast the production of ministerial rules did grow. The productivity of the ministries is rising by this. The expire rate of national rules is relatively slow. The constant production and the slow expire rate results in an accumulation of current rules.

One can question if Brussels is the main cause of the growing number of current laws. It is true the influence of Brussels has increased since the mid 1980s. In this period harmonization of national rules was necessary to reach the goal of a single market in the European Union. The European legislator was very active and this resulted in a growing influence on the national legislation of member states. Since the single market got its shape the relative influence of European legislation on national rules seems to decrease a little. The absolute number of implementations is however increasing. Still we can conclude that there is no evidence that 60 to 80 percent of our national rules are influenced by European directives or regulations. In the last ten years European directives and regulations were involved in the production of on average only 6.2% of the Dutch laws and in 21.4% of the orders in council. For ministerial rules this percentage is around 10%. Although there is some evidence for accumulation of European influence in the stock of current rules, the figures show that the percentages do not exceed 17%. Only 11.1% of the national laws, 16.8% of the orders in council and 11.9% of the ministerial rules contain a reference to one or more (European) directives. These low percentages can be explained by the very low expire rate of existing laws and orders in council. Many laws and orders in council which came into force before the foundation of the European Union and long before the idea of a single market are still current in the Netherlands. It takes quite some time to change or replace 12000 existing rules and 140000 sections.

This leaves the question why the myth is upheld that the EU is so important. It is speculated that this happens because advocates as well as opponents of a strong European Union use the 80 percent myth as an argument for their own interest. For advocates a high percentage emphasizes the importance of the European integration, while opponents stress that such an important Europe is a threat for the sovereignty of its member states. The 80 percent myth is however not supported by our data. Although the influence of Brussels on our national legislation is significant and increasing it is still not dominant.

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¹ www.strijdigeregels.nl, www.OCWontregelt.nl

² NRC, 30 September 2004.

³ Although executive rule making can also be seen as a form of rule making.

⁴ Member-states can also introduce a proposal for a directive on the EU-level. This can be seen as a bottom up action.

⁵ The parliamentary year starts at September 1 and ends at August 31.

⁶ At the 29th of October 2003 the last French law from the age of Napoleon expired. This law was called the 'Mijnbouwwet' (the Mining law).

⁷ The large peak in 1981 was caused by a number of measures in a program (Bestek '81) that had to be accepted by the Parliament right before the end of the term of the cabinet. The dip in the production of laws in the period of 1986 – 1989 might be explained by the fact that this was the second period of the same cabinet. The composition of this cabinet Lubbers II was highly identical to the cabinet before. The policy that was made in the first cabinet Lubbers was consolidated in the second period of this cabinet. Besides this, from the late nineteen seventies there was a growing interest for deregulation. During the third cabinet Lubbers the production of laws increased to a 'normal' level again. When we take the reduction in legislation as a criterion 2003 was a good year. Only 58 new laws came into force and 219 laws were changed. This is significantly less than the year before (2002) with a 78 new and 396 changed laws.⁷ The cause of this decline in productivity was the special character of the parliamentary year 2002-2003 (Van der Toorn en Wieringa, 2003). The first cabinet Balkenende was sworn in at the 22nd of July of 2002. At the 16th of October 2002 the termination of the cabinet was confirmed. With duration of 87 days this was the shortest serving cabinet after the Second World War. The first cabinet Balkenende was under resignation for a longer time than it could govern. At the 31st of August the parliament declared 20 bills controversial. The decision on these bills had to be made after the formation of a new cabinet. The goal to reduce the legislation was reached, but this was more due to external political circumstances than by an effective policy to reduce the production of laws. Besides this, there is another problem. The production of new ministerial rules was extremely high in this period. In one year 695 new ministerial rules were produced never before.⁷ When we listen to the complaints about the burden of rules voiced by managers they usually speak about the rules produced directly by the ministries.

⁸ Averages over the years 1995 – 2003.

⁹ R.W. Overhoff and L.J. Molenaar, De regel beslist: een beschouwing over regelgeving met behulp van beslissingstabellen, 1991, pp. 5-6. They made an estimation by using the Parac-system.

¹⁰ The complete amount of ministerial rules is only from 2004 available in the electronic data base.