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## A new instrument – motivational postures in practice

Action research into the role of motivational postures in the enforcement of social security legislation in the Netherlands

*Paper presented at the Law and Society Association Conference, CRN5 panel 'Technology and Governance: New Tools for Regulation and Compliance', May 29 2021.*

Paulien de Winter & Marc Hertogh<sup>1</sup>

### 1. Introduction

At the beginning of 2021, the Dutch news was dominated by the Benefits Affair, in which thousands of parents became the victims of unjustified suspected childcare benefit fraud. The investigation report 'Unprecedented injustice'<sup>2</sup> not only has far-reaching political and legal consequences, but has also led to a critical discussion on enforcement in the social domain. The parliamentary interrogation committee notes that the political need to organise the implementation as efficiently as possible and the desire to prevent fraud have led to: 'laws and regulations and their implementation, which did little or no justice to *people's individual situations* [...]'.<sup>3</sup> The most important lesson for the future, therefore, is that a different vision of enforcement must be introduced, one that is characterised by '[m]ore tailor-made service provision' and that focuses on 'room for *the person behind the file*'; whereby they are 'more likely to *enter into dialogue with people*'.<sup>4</sup>

This new approach to enforcement is in line with the future vision of the most important agencies in the social domain: the Tax and Customs Administration, the Social Assistance Agencies (municipalities) and the Dutch Employee Insurance Agency. For example, the State Secretaries of Finance writes in the parliamentary letter 'Improvements to the Tax and Customs Administration' that 'an official [must] be given sufficient professional space to be able to offer customised services where appropriate and to keep the human dimension in mind'.<sup>5</sup> On its website, Divosa (the network of municipal directors in the social domain) reports that 'the emphasis in enforcement has shifted' and notes that among its members 'the need for being able to provide *tailor-made solutions* is great'.<sup>6</sup> In a similar way, the Employee Insurance Agency writes in its Enforcement Annual Plan 2020: 'A large majority of our customers abide by the rules that are part and parcel of receiving benefits'. Based on this fact, the Employee Insurance Agency therefore wants to 'increasingly differentiate enforcement' and 'choose an enforcement style that is appropriate'.<sup>7</sup>

This shared new vision on enforcement - in which front-line officials can 'differentiate', have an eye for 'the human measure' and can choose an 'appropriate' enforcement style - is summarized in this article by the term person-centred enforcement. Despite the fact that there is unanimity on the desirability of this approach, it is still unclear how this new approach should be put into practice. In this article, we propose a number of guidelines for this, based on the enforcement literature and empirical research. The focus is in particular on social security legislation (such as the Unemployment Insurance Act and the Participation Act). The central question is: How can person-centred enforcement of social security legislation be shaped in cooperation with the front-line officials? To answer this question, we will use action research. Action research is a form of practice-oriented

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<sup>1</sup> Thanks to Elisabeth Faber for her excellent research assistance. The research was conducted with financial support from Instituut Gak.

<sup>2</sup> Parlementaire ondervragingscommissie Kinderopvangtoeslag, 2020.

<sup>3</sup> *Ibid*, p. 7; italics by author PdW.

<sup>4</sup> *Ibid*, p 107; italics by author PdW.

<sup>5</sup> Kamerstukken II 2019/20, 31066, nr. 700, p.12.

<sup>6</sup> <https://www.divosa.nl/onderwerpen/naleving-en-handhaving> (italics by author PdW).

<sup>7</sup> UWV 2019, p. 3 (italics by author PdW).

research that combines action and research with the aim of developing new knowledge and improving practice at the same time.<sup>8</sup> For the content of the person-centred approach, we will use the concept of 'motivational postures' introduced by Valerie Braithwaite.<sup>9</sup>

This article is structured as follows. First, we discuss a number of central concepts from the enforcement literature and we elaborate on the concept of 'motivational postures' (section 2). We then explain the action research method we used (section 3). For this study, we first developed a prototype of a new electronic analysis tool (which can be used as a support tool for enforcement) and then applied this tool in a pilot study at one Social Assistance Agency. In section 4 we describe our findings from practice and discuss the experiences of benefit recipients and front-line officials with the analysis tool. Next, we reflect on some practical, methodological and ethical implications of the action research (section 5). Finally, we conclude that the analysis instrument we developed seems to offer a good basis for the implementation of person-centred enforcement of social security legislation. However, more (action) research at other agencies is necessary in order to gain a better insight into the strengths and weaknesses of this approach (section 6).

## **2. Theoretical background**

Based on the enforcement literature, and previous empirical research on enforcement in social security, we elaborate on the concept of 'person-centred enforcement of social security legislation' in this section.

### **2.1 Sanctioning and persuasion**

In this article, we consider 'enforcement' to be all activities performed by front-line officials to promote compliance with social security legislation by beneficiaries.<sup>10</sup> Enforcement can take place based on sanctions and persuasion.<sup>11</sup> A sanctioning (or punitive) enforcement style mainly involves the use of fines, penalties and other coercive measures. In the persuasive enforcement style, the emphasis is on consultation, advice and cooperation. Both enforcement styles are based on a different compliance theory. Sanctioning is based on an 'instrumental' approach to compliance. According to this approach, compliance with rules is mainly determined by the personal advantages and disadvantages people (think they) experience as a result of complying with the rules. People make a rational assessment, and if they think there is a real risk of a sanction, they will refrain from breaking the rules.<sup>12</sup> The 'instrumental' approach has long been dominant in literature. However, more recent studies also point out the limitations of this approach and show that a cost-benefit consideration is only one motive among others for compliance.<sup>13</sup> Researchers have therefore also developed an alternative approach. Persuasion takes a 'normative' approach to compliance. The starting point of the normative approach is that the behaviour of individuals is influenced by what they themselves consider to be fair.<sup>14</sup> This approach assumes that if people consider the government and its rules to be just, they will feel more obliged to follow these rules (regardless of the sanction attached to non-compliance).

### **2.2 Motivational postures**

To study the instrumental approach to compliance, one can look, for instance, at the (perceived) probability of receiving an actual sanction or fine for a violation and at the expected benefit of the violation. In applying the normative approach to compliance, this article draws on the work of

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<sup>8</sup> Van der Zouwen 2020; Reason & Bradbury 2001.

<sup>9</sup> Braithwaite 2003; 2009; 2011.

<sup>10</sup> De Winter 2019, p. 13.

<sup>11</sup> Hawkins 1984; Kagan & Scholz 1984; Koolhaas 1990; Wiering 1999.

<sup>12</sup> Becker 1968; Paternoster & Simpson 1996; Scholz & Pinney 1995.

<sup>13</sup> Pratt et.al. 2006.

<sup>14</sup> Cf. Tyler 1990.

Braithwaite.<sup>15</sup> The essence of her approach is that citizens continually judge enforcement agencies on the basis of their behaviour. Over time, citizens develop a certain attitude towards the enforcer. Some citizens feel akin to the enforcers, while others experience a greater social distance. Braithwaite distinguishes five different 'motivational postures': 'commitment', 'capitulation', 'resistance', 'disengagement' and 'game playing'.<sup>16</sup> People with a posture of 'commitment' and 'capitulation' are quite positive about government and legislation; people with a posture of 'resistance' and 'disengagement' are generally quite negative about it. In the case of 'game playing', people try to avoid legislation as much as possible. Research in various policy areas shows that citizens with the first two postures generally comply better with the law compared to citizens with the last three postures.<sup>17</sup>

### **2.3 Person-centred enforcement**

In previous research, we have shown - based on a national survey of more than a thousand beneficiaries and various regression analyses - that compliance with social security legislation is related to two factors.<sup>18</sup> First, the degree to which benefit recipients comply with their benefit obligations is related to the perceived probability of being caught and the expected benefit of the infringement. In addition, the compliance behaviour of benefit recipients is also related to their motivational posture.<sup>19</sup> 'Commitment' and 'capitulation' show a positive correlation with compliance, while 'resistance', 'disengagement' and 'game playing' are negatively related to compliance behaviour.

These findings change our perspective on enforcement. If we follow an 'instrumental' approach - and compliance is solely determined by the perceived chance of being caught and the expected benefit of the violation - then enforcement becomes primarily a matter of more or less harsh punishment. Our research, however, also points to the importance of the motivational postures of benefit recipients. This is more in line with a 'normative' approach. This approach assumes that if people consider the government and the rules to be fair, they will feel more obliged to follow these rules (regardless of the possible sanctions or the expected benefit or disadvantage). From this perspective, it is especially important that enforcement matches the profile of the benefit recipient. Until now, many (policy) discussions on enforcement have often focused on the first approach. Our earlier research shows, however, that effective enforcement in social security is much more complex than gradually 'scaling up' enforcement. We therefore believe that the level of compliance in social security would benefit from 'smarter' enforcement rather than 'more' enforcement.<sup>20</sup> The effectiveness of enforcement in social security is probably determined not only by tougher or softer measures, but also by the extent to which the enforcement style is tailored to the specific background and expectations of the beneficiary.

Translated to the implementation practice of social security, it is therefore important for the agency to first try to determine the (most dominant) motivational posture of a benefit recipient and subsequently to attune the enforcement activities as much as possible to his or her profile (posture). This is the guiding principle behind our vision of person-centred enforcement of social security legislation. This also presupposes a different interpretation of the equality principle: no 'uniform

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<sup>15</sup> Braithwaite 2003; 2009; 2011.

<sup>16</sup> For a more detailed description of these five motivational postures, see Bantema 2016, p. 31-32.

<sup>17</sup> Bartel & Barclay 2011; Bantema 2016; Braithwaite 2009; Kirchler & Wahl 2010.

<sup>18</sup> Hertogh & Bantema 2018; Hertogh et al. 2018.

<sup>19</sup> The influence of both factors was examined in one regression analysis (see: Hertogh & Bantema 2018, p. 372, Table 4a; model 1/2). It is also possible that some overlap exists between the two factors, but we did not examine this separately.

<sup>20</sup> Cf. Gunningham a.o. 1998; Sparrow 2000; Schuilenburg n.d.

equality' but 'situational equality'.<sup>21</sup> In the social domain, this is sometimes described as a shift from giving 'everyone the same' to giving 'everyone his due'.<sup>22</sup> In the case of benefit recipients with a posture of 'capitulation', for example, the contact with the agency plays a major role. This could mean that the agency will mainly focus on improving, for example, the perceived procedural justice or increasing the trust of benefit recipients. For people with a posture of 'commitment', the contact with the agency plays a less prominent role and the opinions on legislation are especially important.<sup>23</sup> With these benefit recipients, the agency could perhaps try to increase support for, for example, the reporting of extra income or the obligation to apply for a job. For benefit recipients with a posture of 'disengagement', the perceived obligation to follow the law is important. In line with this, the agency could try to give extra attention to this very element in their contact with these benefit recipients. Finally, a number of instrumental motives play a role in people with a posture of 'game playing'. With these benefit recipients, the agency could therefore focus on increasing the chance of being caught and on reducing the expected benefit of a possible infringement.

### **3. Action research**

In previous research, as explained in the previous section, we looked at what the person-centred enforcement of social security legislation could look like 'in theory'. However, what is the meaning of this approach in practice? How can we translate this approach into everyday practice and how do beneficiaries and front-line officials experience this form of enforcement? In order to answer these questions, we used action research. Action research is, as mentioned before, a form of practice-based research that combines action and research with the aim of developing new knowledge and improving practice at the same time. The basic principle is that you conduct research in practice together with people from that practice.<sup>24</sup> In disciplines such as policy sciences and public administration, this form of research is already regularly applied, but in the sociology of law, this method is (as far as we know) still less well-known. Action research is not undisputed. Besides the positive aspects mentioned (such as not only studying practice, but also improving practice), this new form of research also leads to a number of important methodological and ethical questions.<sup>25</sup> We will discuss some of these questions below (section 5). Our action research was carried out at one Social Assistance Agency ('Werkplein Drentsche Aa') in the period May 2019 to December 2019.<sup>26</sup> The research consisted of three phases: (1) the development of a prototype of an electronic analysis tool (to support enforcement); (2) the application of the analysis tool in a pilot study; and (3) the reflection on our findings in an expert meeting.

#### **3.1 Development of the prototype**

First, we developed - in close cooperation with a small group of front-line officials and beneficiaries at one Social Assistance Agency - a prototype of an electronic analysis tool. By means of a questionnaire, this tool identifies the motivational posture of benefit recipients and, based on this, formulates an enforcement advice that best fits the postures of benefit recipients. The prototype takes the form of a digital environment (an 'application') on a PC or laptop.<sup>27</sup> This digital

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<sup>21</sup> Hertogh 2006; Meurs 2018a.

<sup>22</sup> This is - of course - not uncontroversial. While proponents argue that this approach does more justice to a person's personal situation (Donner 2016; Meurs 2018b), opponents point, for example, to the risks of arbitrariness and the importance of collective responsibility (Van der Veen 2018).

<sup>23</sup> For the reasoning behind these and other backgrounds of motivational postures, see: Hertogh & Bantema 2018, pp. 375-376 (Table 6).

<sup>24</sup> Van der Zouwen 2020, p. 15. See also Reason & Bradbury 2001.

<sup>25</sup> Cf. Zeni 1998; Fouché & Chubb 2017.

<sup>26</sup> Werkplein Drentsche Aa is the Social Assistance Agency of the municipalities' Aa en Hunze, Assen and Tynaarlo (in the North of the Netherlands) and is based in Assen.

<sup>27</sup> The technical part of the digital environment was provided, in close consultation with the researchers, by 42tree.

environment consists of three parts: (i) a part for the benefit recipients, (ii) a part for the officials at the Social Assistance Agency, and (iii) a part for the researchers.

### **I. Beneficiaries**

The first part of this digital environment is intended for beneficiaries. In this digital environment, they are invited to indicate to what extent they agree or disagree with a number of statements. Based on their answers, their postures (profile) can be determined. These statements are taken from our earlier (survey) research into the motivational postures of benefit recipients.<sup>28</sup> These are some examples of the statements used (with the corresponding posture)<sup>29</sup>:

- All people who receive benefits must obey the rules. (commitment)
- Even when the Social Assistance Agency knows that I have made mistakes, they will respect me. (capitulation)
- The Social Assistance Agency leaves people too much to their own fate. (resistance)
- I am not interested in what the Social Assistance Agency expects from me. (disengagement)
- I like to talk with family/friends about loopholes in the benefit rules. (game playing)

In addition to these statements for determining the postures of the benefit recipients, three statements have been added at the request of the front-line officials about what benefit recipients expect from their agency:

- I expect the Social Assistance Agency to behave like a counsellor. They will help me to fulfil my benefit obligations.
- I expect the Social Assistance Agency to behave like a police officer. They will punish me when I do not comply with my benefit obligations.
- I expect the Social Assistance Agency to behave like a teacher. They will explain to me what the obligations of my benefit are.

Finally, in consultation with the officials, a number of general statements have been added to determine the extent to which benefit recipients give socially desirable answers to the questionnaire. For this purpose, we used the following statements<sup>30</sup>:

- I help everyone who asks me for help
- I always let others finish
- I am always friendly to everyone
- I consider the opinion of others carefully
- I never do anything that might disturb others around me

The idea (based on previous research) is that respondents who score high on these general statements may also have filled in the other statements in a socially desirable way. The research checked for this by combining the statements for measuring social desirability into one variable and calculating the correlations between this variable and the motivational postures.

### **II. Front-line officials**

The second part of the digital environment is meant for the front-line officials of the Social Assistance Agency. The officials can log in and view the profiles (postures) of the benefit recipients with whom they will later have an (intake) interview. In addition to the profile of the benefit recipient, the

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<sup>28</sup> Hertogh et al. 2018.

<sup>29</sup> These statements are taken from our earlier (survey) research on the motivational postures of benefit recipients, see Hertogh et al. 2018.

<sup>30</sup> These statements are based on research by Ten Dam et al. 2013.

officials also receive (on the basis of this profile) enforcement advice on how best to treat this benefit recipient in order to promote compliance with social security legislation. These are two examples of advice<sup>31</sup>:

- Advice for benefit recipients with a posture of 'commitment':

People with this profile have a lot of support for rules and obligations, the contact with the benefit agency is often good and they experience a small social distance with the benefit agency. People with this profile are positive about the government and legislation. Focus on information and advice about the obligations. Be careful with (the threat of) punishments and sanctions.

- Advice for benefit recipients with a posture of 'resistance':

People with this profile have a low acceptance of rules and have bad contact with the benefit agency. They are negative about the government and legislation. These people are willing to cooperate. Focus on the chance of being caught. Persuasion does not work, so focus on sanctioning.

### III. Researchers

The third part of the digital environment is meant for the researchers. In this section, the researchers can view the completed questionnaires and link the officials to the beneficiaries with whom they will be conducting interviews.

#### 3.2 Pilot study

The prototype of the electronic analysis tool has been tested at one Social Assistance Agency in the Netherlands. All six front-line officials who handle the application of new benefits recipients (intake team) have participated in the pilot.<sup>32</sup> At the beginning of the test period, the front-line officials of the Social Assistance Agency were informed about the study by means of a PowerPoint presentation of the researchers. In addition, the officials involved received a test plan containing the description of the study. In consultation with the officials, it was decided to administer the questionnaire to benefit recipients before they had the first contact with the agency.

In the first instance, the Social Assistance Agency approached people who applied for benefits by e-mail to complete the questionnaire. When it turned out that the questionnaire was insufficiently completed, it was decided, in consultation with the Social Assistance Agency, that the researchers would give a short presentation prior to the weekly information meeting for new benefit recipients. After the presentation, those present could fill in the questionnaire on the laptops provided. The researchers then digitally linked the completed questionnaires to the officials. The matching of beneficiaries to officials took place on the basis of a (random) classification drawn up by the process supervisor. Prior to the first interview with the benefit recipient, the officials viewed the profile of the benefit recipient and the corresponding advice and then conducted the interview (intake).<sup>33</sup>

The completed questionnaires of all benefit recipients were accessible only to the researchers. Front-line officials could only view the profile of the benefit recipients that were linked to them. In

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<sup>31</sup> For an overview of all advices, see De Winter & Hertogh 2020.

<sup>32</sup> Although the persons applying for benefits are not yet formally benefit recipients, the terms 'beneficiaries' and 'benefit recipients' are used in this article.

<sup>33</sup> The procedure at this Social Assistance Agency is that 'new' recipients of benefits attend an information event and then have an initial interview ('intake') with a front-line official. In the pilot project an extra step was added, namely that prior to the first interview with the benefit recipient, the official views the results of the questionnaire and uses this knowledge for the first interview.

addition, they could also see the benefit recipient's answer to the questions of how they expected the Social Assistance Agency to behave (counsellor, police officer, teacher).

In the period from September to November 2019, the researchers attended eleven information meetings. A total of 56 new benefit recipients attended these meetings. Of these 56 benefit recipients, 80% (45 benefit recipients) completed the questionnaire.<sup>34</sup> On average, it took ten minutes to complete the questionnaire. At the end of the test period, all front-line officials involved were interviewed and a selection of the beneficiaries who participated in the pilot were interviewed. In total, eleven beneficiaries were approached for an interview, six of whom were eventually interviewed. These interviews form the basis for our report on the experiences of officials and beneficiaries (section 4.2).

### **3.3 Expert meeting**

The action research was concluded with an expert meeting on 19 February 2020 in Amersfoort. The purpose of this meeting was to examine to what extent our findings at the Social Assistance Agency were also recognised by officials from other parts of the country. The participants in this expert meeting were: three officials of the Employee Insurance Agency (an front-line official, a 'product owner enforcement and fraud', and an advisor 'quality and implementation') and three officials of different Social Assistance Agencies (an enforcer, an income team manager, and a enforcement team manager).

## **4. Findings from practice**

In this section, we will discuss the findings of the action research. First, we will look at the application of the prototype at the Social Assistance Agency. Then we will discuss how beneficiaries and officials have experienced the new analysis tool. Finally, we will discuss some results of the expert meeting.

### **4.1 Application of the prototype**

The questionnaire (to determine the postures of recipients) was completed by 45 benefit recipients, 14 of them women and 31 men. The average age of the respondents is 42 (youngest 29, oldest 63). The respondents used ratings from one (totally disagree) to five (totally agree) to indicate the extent to which they agreed or disagreed with each of the statements of the different postures. These ratings for a given motivational posture were summed and divided by the number of items used to measure that posture, thus constructing a scale. The mean scores on the statements for the postures commitment, capitulation, resistance, disengagement, and game playing are shown in Figure 1.<sup>35</sup>

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<sup>34</sup> Benefit recipients who did not complete the questionnaire gave the following reasons for this: insufficient command of the Dutch language, inability to read, or lack of digital skills.

<sup>35</sup> Due to an error in the questionnaire, it was possible for respondents not to answer some statements. These skipped statements have been replaced by the average score of the respondent on the other statements belonging to the same motivating posture. In total, there were 14 respondents who missed an answer to one or more individual statements.



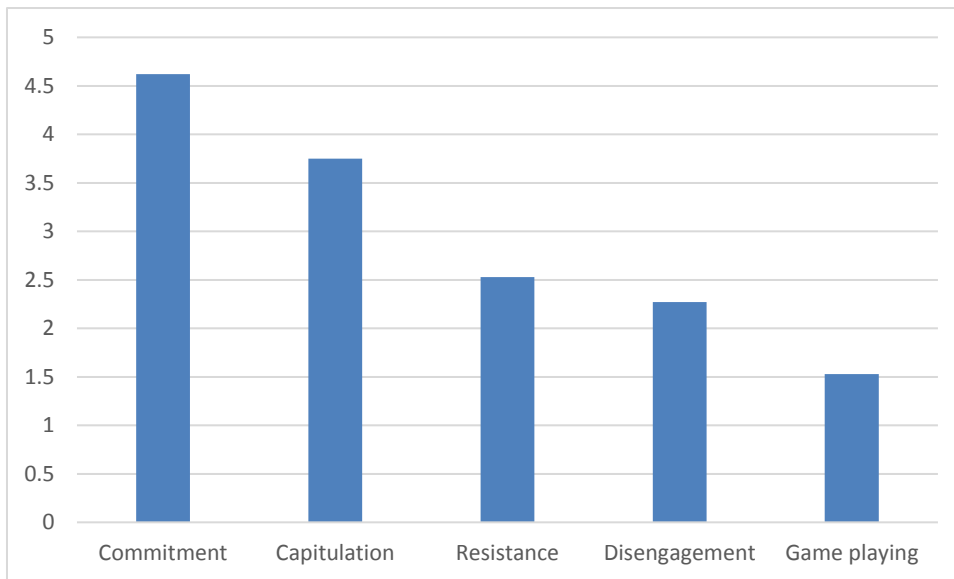


Figure 1: Mean scores for motivational postures of ‘commitment’, ‘capitulation’, ‘resistance’, ‘disengagement’ and ‘game playing’.

A score of three or higher means that there is a motivational posture.<sup>36</sup> Benefit recipients can have several 'motivational postures' at the same time.<sup>37</sup> The completed questionnaires show that the posture 'capitulation' is most common (100%), followed by the posture 'commitment' (98%). About one third of the benefit recipients have the posture 'resistance' (33%). A quarter of the benefit recipients have the posture 'disengagement' (24%) and a small proportion have the posture 'game playing' (9%).

In addition to determining the postures, the prototype provides insight into how benefit recipients expect the Social Assistance Agency to behave. For each role (counsellor, teacher and police officer), the benefit recipients could indicate to what extent they thought the Social Assistance Agency would behave this way. Most of the benefit recipients expected the agency to act like a counsellor (49%), followed by a teacher (35%) and a police officer (16%).<sup>38</sup>

Finally, the digital environment also provides insight into the responses of the benefit recipients to the statements measuring social desirability. On a scale of 1 to 5, benefit recipients scored an average of 4.1.

#### 4.2 Experiences of benefit recipients and front-line officials

At the end of the pilot phase, the researchers spoke with six beneficiaries and six front-line officials of the Social Assistance Agency.

##### *Experiences of beneficiaries*

The digital environment of the prototype is experienced as user-friendly and the length of the questionnaire as good. The interviewed benefit recipients were given access to their profile and the corresponding advice for the official. When discussing the profile, the recipients indicated that they found it appropriate and that they recognised themselves in their profiles. They also thought the advice was appropriate:

<sup>36</sup> Braithwaite 2009, p. 108; Bantema 2016, p. 55.

<sup>37</sup> The postures are not mutually exclusive. If a benefit recipient scores a three or higher on multiple postures, the official will therefore also receive multiple recommendations about this benefit recipient.

<sup>38</sup> This refers to the "expected" attitude, not the attitude "desired" by the benefit recipient. This pilot study did not examine whether officials took into account benefit recipients' responses to these statements.

- 'Yes that [profile] is absolutely right'. (beneficiary 1)
- I think that is a very good advice. (beneficiary 5)

Benefit recipients indicate that they appreciate the attention paid to appropriate enforcement:

- I thought it was very nice that you [the researchers] were there, because I thought 'finally, they are looking at the beneficiaries and not just at the officials'. (beneficiary 2)
- I think it really matters how you deal with someone. If you know in advance what kind of person you are dealing with. [...] I think it would be very positive if everyone, the income coach, the work coach, knew the profile of the beneficiary. (beneficiary 4)

Benefit recipients would like to receive feedback based on their profile:

- All sorts of things are written down about you. So then, you actually want to know how it all fits together. (beneficiary 5)

Benefit recipients also tell us that they think their profile may change in the course of the process. Some of them indicated that, as a result of the conversations with front-line officials at the Social Assistance Agency, filling in the questionnaire again would probably lead to a different outcome.

#### *Experiences of front-line officials*

Front-line officials at the Social Assistance Agency are generally satisfied with the (enforcement) advice they received. They are positive about the pilot and they see the added value of the electronic analysis tool. The officials see the instrument as a tool that can support them in their contact with beneficiaries:

- 'It is a tool, so that you have some idea of what to expect from a beneficiary.' (official 6)
- I think it is useful if you can see the profile beforehand and [also] afterwards. (official 5)

However, they also indicate that they still prefer to conduct the interviews with benefit recipients in their own way:

- I do not think that is very useful to me personally. I do it in my own way, a conversation [interview] like that. (official 2)

However, officials do think that colleagues who are just starting out can benefit a lot from the tool. None of the officials discussed the profile in concrete terms with the beneficiaries. For that matter, none of the benefit recipients asked about it during the interview either. In general, the officials have the feeling that the profile fits the beneficiaries that they meet.<sup>39</sup> However, it turns out that officials sometimes take into account that beneficiaries may have answered the questionnaire in a socially desirable way. For example:

- I think that he has partly filled in the questionnaire truthfully, but that he has also toned it down a bit. (official 4)

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<sup>39</sup> Although one official compared the profile to a 'horoscope'.

Officials believe that the profile of the beneficiaries should be established at the beginning of the application procedure for the benefit. They also believe that the rest of the agency should be able to make use of this knowledge:

'It should take place at the beginning. Because this is where the beneficiaries come in. And then the rest of the agency can use the same profile.' (official 6)

#### **4.3 Results of expert meeting**

The participants in the expert meeting confirmed the practical usefulness of the electronic analysis tool and endorsed its added value for the implementation practice. However, they also recognised that some officials preferred to stick to their own working methods. They emphasise that the implementation of the instrument therefore requires the necessary attention and that the entire agency must be involved. Finally, they point out that the use of the tool can also lead to more officials becoming aware that the majority of benefit recipients are willing to comply (with a posture of 'commitment' or 'capitulation'). This awareness is seen as an important first step in improving enforcement.

### **5. Discussion**

In this study, we have examined how, in cooperation with the practice, the person-centred enforcement of social security legislation can be shaped. Our findings give rise to a number of practical, methodological and ethical reflections.

#### **5.1 Practical reflections**

The added value of the electronic analysis tool that we developed is widely endorsed by both benefit recipients and front-line officials. However, the pilot study also showed which parts of the instrument could be further refined and in which way the instrument could best be implemented.

The questionnaire that we used in the prototype proved to be very useful for determining the postures of benefit recipients. For the further development of the analysis instrument, however, it could be considered to delete a number of statements and to add other statements in order to get an even clearer picture of the profile. In addition, the profile of the benefit recipient must remain up-to-date. If this does not happen, a 'negative' profile, for example, can remain attached to a benefit recipient for an unnecessarily long time. For this reason, several checkpoints should be considered so that the development in the profile can be monitored and the enforcement can be adjusted accordingly.

The pilot study also shows that social desirability can play a role when filling in the questionnaires. On a scale of 1 to 5, benefit recipients score an average of 4.1 (relatively high) here. There is a moderate correlation between the variable social desirability and a posture of 'capitulation' (.431,  $p < .01$ ), as well as between social desirability and a posture of 'commitment' (.306,  $p < .05$ ). There is a weak correlation between social desirability and a posture of 'game playing' (0.269, n.s.), as well as between social desirability and a posture of 'resistance' (.172, n.s.). We can cautiously conclude from this that beneficiaries who score high on the postures associated with little compliance are less inclined to respond in a socially desirable way. We can cautiously conclude from this that beneficiaries who score high on the postures that are associated with low compliance are less inclined to answer in a socially desirable way. It should also be taken into account that front-line officials anticipate to the possibly socially desirable answers of benefit recipients and therefore 'weaken' the profile ('this benefit recipient is probably not that connected') or, on the contrary, 'strengthen' it ('this benefit recipient is probably more resistant'). In order to prevent this, it must be clear to what extent beneficiaries fill in the questionnaire in a socially desirable way. For the further development of the analysis tool, it is therefore important to investigate how socially desirable answers can be better visualised and can be prevented as much as possible.

The electronic analysis tool is probably most effective if it is supported by the entire agency. To this end, it is important to make the results of the instrument per Social Assistance Agency transparent for both the front-line officials and their managers. To prevent the tool from being dismissed as just one of many tools, and to make the tool work optimally, it must be integrated into the work process. Our instrument can, for example, be incorporated into a number of other instruments used in the social domain. In the pilot study, the results of the questionnaire were not shared with the benefit recipients.<sup>40</sup> They were therefore not told which profile (motivational posture) was assigned to them. From the point of view of transparency, it could be considered to share this information with benefit recipients.

Finally, research could be done into refining the match between benefit recipients and front-line officials. In our action research, the emphasis was on the profile of the benefit recipient and the match between benefit recipient and official was made on a random basis. However, officials also differ in their approach. In practice, it should therefore be possible to select benefit recipients and officials on the basis of their profile and approach in order to ensure an even better match. A benefit recipient with the profile 'capitulation', for example, could then be matched with an official who is particularly good at having a good conversation and someone with the profile 'resistance' could then be matched with an official who is better at a tougher approach.

## **5.2 Methodological reflections**

For this study, we used action research. This method is not yet widely used in the field of sociology of law. Based on our experiences, we gained more insight into some of the strengths and weaknesses of this research method.

In traditional social science research, there is usually a strong separation between the researchers and research subjects. In action research, however, the cooperation between both is central, with the aim of developing new knowledge and improving practice at the same time. The active involvement of managers and front-line officials of the Social Assistance Agency in the design and execution of our research has among other things led to a number of parts of our questionnaires being supplemented and refined (including questions about the expectations of benefit recipients and statements to identify socially desirable responses). In addition, both beneficiaries and officials indicated that the electronic analysis tool works well for them and that it can contribute to better (more appropriate) enforcement.

However, our research also reveals a number of challenges and risks of action research. First, as researchers, we are dependent on the cooperation of front-line officials. In most studies, this only involves, for example, filling in questionnaires or participating in an interview. Action research, however, involves a greater degree of involvement. The officials were asked to actively think along with the research design and during a number of weeks they were asked to adjust their working method by (prior to each intake interview) taking note of the profile of the benefit recipient. As researchers in this study, we were fortunate with the participation of the Social Assistance Agency and the willingness of the front-line officials to participate in the study. In general, however, it is a challenge to keep officials sufficiently involved in the research, next to their busy daily activities. The active involvement of front-line officials in action research also entails the risk that officials will mainly emphasise the positive aspects of the research, because they themselves have contributed to the research design. Researchers should be extra alert for this and therefore, for example, ask more questions about positive and negative experiences in the concluding interviews.

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<sup>40</sup> Only the benefit recipients interviewed (at the end of the pilot) were given access to their profile and the matching advice.

We conducted our action research at only one Social Assistance Agency. The number of front-line officials and the number of beneficiaries who participated in this research is therefore limited. Therefore, our findings cannot be generalised. We have tried to partly overcome this by presenting our findings to officials of other Social Assistance Agencies and Employee Insurance Agencies during the expert meeting. For more insight into the usability of our prototype and into the advantages and disadvantages of the person-centred method, however, more (action) research at other agencies is necessary. Finally, it should be emphasised that our pilot study was primarily aimed at developing the prototype together with practitioners and analysing the way in which officials experience working with the electronic analysis tool. We did not investigate whether officials actually acted differently (and we did not, for example, observe any interviews between officials and benefit recipients). In other words, our research was explicitly not aimed at measuring the effects of the analysis tool. In order to determine this, a follow-up study could include a field experiment in which the group that worked with the analysis tool was compared to a control group.

### **5.3 Ethical reflections**

Action research also leads to a number of ethical dilemmas. On the one hand, a number of ethical standards for traditional social science research are less relevant or applicable to action research. For example, it is customary for the researcher to keep sufficient distance from the research field, to keep control over his research design and for the respondents in the research to remain anonymous as much as possible. In action research, however, close cooperation with the research field is central, the research design is adjusted in the interim on the basis of suggestions from the research field, and anonymity is not always necessary. On the other hand, action research also raises a number of new questions, especially through the cooperation with the research subjects.<sup>41</sup> For example, who may or may not participate in the research; what are the mutual power relations in the research field; and how can vulnerable respondents be protected as much as possible from any negative effects of the research? Against this background, we have made agreements with the Committee for the Ethical Testing of Research in Law of the University of Groningen about the interpretation of the action research. One of the results was that we clarified the 'informed consent' statement at the beginning of our questionnaire and asked respondents to sign the 'informed consent' statement at the beginning of the interviews. Furthermore, during the information meetings with benefit recipients, we emphasised that they could decide for themselves whether or not they wanted to participate in our study and that the study would not have any consequences for their benefit applications. Finally, all personal data were deleted at the end of the research.

### **6. Conclusion**

In the wake of the benefits affair, both politicians and front-line officials are calling for more personalised enforcement. This form of enforcement allows the front-line officials to make more distinctions, thereby creating more scope for customised solutions with a view to 'the human scale' and allowing them to choose an appropriate enforcement style. Despite the consensus on the desirability of this approach, it is still unclear how this new approach should be implemented in practice. Following on from this, in this article we have introduced the prototype of an electronic analysis tool that officials can use for person-centred enforcement of social security legislation. This instrument makes use of the concept of 'motivational postures' introduced by Braithwaite. By means of an action research, we subsequently applied this prototype at one Social Assistance Agency. The research shows that the analysis tool we developed offers a good basis for the implementation of person-centred enforcement of social security legislation. However, in order to get a better picture of the strengths and weaknesses of the instrument, more (action) research at other implementing organisations is needed. In this way, sociology of law research can make an important contribution to the development of what we believe to be a better and more just enforcement practice.

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<sup>41</sup> Zeni 1998; Fouché & Chubb 2017.

## References

- Ayres, I. & J. Braithwaite, *Responsive regulation: transcending the deregulation debate*, New York: Oxford University Press 1992.
- Bantema, W., *Cafés in opstand: Een rechtssociologische studie naar de naleving van het rookverbod door caféhouders*, Den Haag: Boom juridisch 2016.
- Bartel, R. & E. Barclay, 'Motivational postures and compliance with environmental law in Australian agriculture', *Journal of Rural Studies*, 2011-27(2), p. 153-171.
- Becker, G.S., 'Crime and punishment: an economic approach', *Journal of Political Economy* 1968-76(2), p. 169-217.
- Braithwaite, V., Dancing with tax authorities: motivational postures and non-compliant actions. In: V. Braithwaite (ed.), *Taxing democracy: understanding tax avoidance and evasion*. Aldershot: Ashgate Publishing 2003, p. 15-39.
- Braithwaite, V., *Defiance in taxation and governance: resisting and dismissing authority in a democracy*, Cheltenham, UK: Edward Elgar Publishing 2009.
- Braithwaite, V., *Motivations, attitudes, perceptions and skills: pathways to safe work*. Report to Safe Work Australia, Canberra: Regulatory Institutions Network, Australian National University (ANU) 2011.
- Bunt, H. van de, J. van Erp & K. van Wingerde, 'Hoe stevig is de piramide van Braithwaite?', *Tijdschrift voor Criminologie* 2007-49(3), p. 386-399.
- Dam, G.T.M. ten, F.P. Geijssel, E. Guuske Ledoux & E. Joost Meijer, 'Citizenship of students and social desirability: Living apart together?', *International Journal of Education Research* 2013-62, p. 229-238.
- Donner, J.P.H., 'Laat je niet gek maken' (Toespraak Divosa Voorjaarscongres) 2016.  
[https://www.divosa.nl/sites/default/files/werkwijzer\\_bijlage/20160602\\_toespraak\\_jp\\_donner\\_op\\_vjc2016.pdf](https://www.divosa.nl/sites/default/files/werkwijzer_bijlage/20160602_toespraak_jp_donner_op_vjc2016.pdf)
- Fouché, C.B. & L.A. Chubb, 'Action researchers encountering ethical review: a literature synthesis on challenges and strategies', *Educational Action Research* 2017-25(1), p. 23-34.
- Gunningham, N., P. Grabosky & D. Sinclair, *Smart regulation: designing environmental Policy*, Oxford: Oxford University Press 1998.
- Hawkins, K., *Environment and Enforcement*, Oxford: Clarendon Press 1984.
- Hertogh, M., 'Bier werkt beter dan koffie. Over de bestuurlijke beleving van het gelijkheidsbeginsel', in: P.L. Meurs, E.K. Schrijvers en G. H. de Vries (red.), *Leren van de praktijk. Gebruik van lokale kennis en ervaring voor beleid*. WRR verkenningen nr. 12. Amsterdam: Amsterdam University Press 2006, p. 19-40.
- Hertogh, M. (red.), W. Bantema, H. Weyers, H. Winter & P. de Winter, *Slimme handhaving: Een empirisch onderzoek naar handhaving en naleving van de socialezekerheidswetgeving*, Boom Juridische uitgevers 2018.
- Hertogh, M., & W. Bantema, 'Slimme handhaving in de sociale zekerheid: Lessen uit een landelijke enquête onder uitkeringsgerechtigden', *Beleid en Maatschappij* 2018-45(4), p. 362-390.
- Kagan, R.A. & J.T. Scholz, 'The "Criminology of the Corporation" and Regulatory Enforcement Strategies', in: K. Hawkins & J.M. Thomas (red.), *Enforcing Regulation*, Boston: Kluwer-Nijhoff Publishing 1984, p. 67-95.
- Kirchler, E. & I. Wahl, 'Tax compliance inventory: TAX-I voluntary compliance, enforced tax compliance, tax avoidance, and tax evasion', *Journal of Economic Psychology* 2010-31(3), p. 331-347.
- Koolhaas, E. 'Milieu, handhavingsstrategieën en beleid. De noodzaak tot het maken van keuzes', *Justitiële Verkenningen* 1990-16(3), p. 92-109.
- Mascini, R., 'Why was the Enforcement Pyramid so Influential? And What Price was Paid?', *Regulation & Governance* 2013-7(1), p. 48-60.
- Mascini, P. & E.V. van Wijk, 'Responsive regulation at the Dutch Food and Consumer Product Safety Authority: an empirical assessment of assumptions underlying the theory', *Regulation & Governance*, 2009-3(1), p. 27-47.

- Meurs, P.L., 'Situationele gelijkheid: van uniforme normen naar situationele legitimering' (Van Slingelandt-lezing) 2018a. <https://www.bestuurskunde.nl/2018/11/22/situationele-gelijkheid-van-uniforme-normen-naar-situationele-legitimering-van-slingelandt-lezing-2018/>
- Meurs, P.L., 'Van "ieder het gelijke" naar "ieder het zijne" geven,' *Sociale Vraagstukken*, 2018b. <https://www.socialevraagstukken.nl/van-ieder-het-gelijke-naar-ieder-het-zijne-geven/>
- Nielsen, L., The need for multi-method approaches in empirical legal research. In: P. Cane & H. Kritzer (eds.), *The Oxford Handbook of Empirical Legal Research*, Oxford: Oxford University Press 2010, p. 951-975.
- Parlementaire ondervragingscommissie Kinderopvangtoeslag, *Ongekend onrecht. Verslag – Parlementaire ondervragingscommissie Kinderopvangtoeslag*, Tweede Kamer der Staten-Generaal 2020.
- Paternoster, R. & S. Simpson, 'Sanction threats and appeals to morality: testing a rational choice model of corporate crime', *Law and Society Review*, 1996-30(3), p. 549-583.
- Pratt, T.C., F.T. Cullen, K.R. Blevins, L.E. Daigle & T.D. Madensen, The empirical status of deterrence theory: a meta-analysis. In: F.T. Cullen J.P. Wright & K.R. Blevins (eds.), *Taking stock: the status of criminological theory* (Advances in criminological theory, Volume 15), New Brunswick/London: Transaction Publishers 2006, p. 367-396.
- Reason, P. & H. Bradbury, *Handbook of Action Research: Participative Inquiry & Practice*, London: Sage 2001.
- Scholz, J.T. & N. Pinney, 'Duty, fear and tax compliance: the heuristic basis of citizenship Behavior', *American Journal of Political Science*, 1995-39(2), p. 490-512.
- Schuilenburg, M. (z.j.), *Slimme rechtshandhaving: Milieucriminaliteit*, Bureau de Helling. <https://bureaudehelling.nl/artikel-tijdschrift/slimme-rechtshandhaving>.
- Sparrow, M.K., *The regulatory craft. Controlling risks, solving problems, and managing Compliance*, Washington D.C.: The Brookings Institution 2000.
- Tyler, T.R., *Why people obey the law*, New Haven/London: Yale University Press 1990.
- UWV, *UWV Handhavingsjaarplan* 2019.
- Veen, R., 'Je kunt sociaal beleid beter benaderen vanuit collectieve verantwoordelijkheid dan vanuit gelijkheid,' *Sociale Vraagstukken*, 2018.
- Wiering, M. *Controleurs in context. Handhaving van mestwetgeving in Nederland en Vlaanderen*, Lelystad: Koninklijke Vermande 1999.
- Winter, P. de, *Tussen de regels. Een rechtssociologische studie naar handhaving in de sociale zekerheid*, Boom juridisch 2019.
- Winter, P. de, & Hertogh, M. (2020). *Slimme Handhaving in de praktijk*. Rijksuniversiteit Groningen. <https://www.instituutgak.nl/onderzoek/kennisbank/notitie-slimme-handhaving-in-de-praktijk/>
- Zeni, J., 'A guide to ethical issues and action research,' *Educational Action Research*, 1998-6(1), p. 9-19.
- Zouwen, T. van der, *Actieonderzoek doen. Een routewijzer voor studenten en professionals*, Amsterdam: Boom uitgevers 2020.