

Background

At the hearing of the Aarhus Convention Compliance Committee of 14 June 2023 concerning a wind farm in Vianen, in the province of Utrecht, a question was asked about the difference between a policy strategy (*structuurvisie*) and a central government coordination scheme (*rijkscoördinatierегeling*). They are both spatial planning instruments whose legal basis is the Spatial Planning Act. The difference between them is explained briefly below.

Policy strategy (*structuurvisie*)

A policy strategy is a document drafted on the basis of the Spatial Planning Act that describes in broad brushstrokes the desired direction of a spatial development. A policy strategy may concern a specific region (e.g. Policy Strategy on the Wadden Sea), a relevant spatial issue (e.g. Onshore Wind Power Policy Strategy) or the entire territory of the Netherlands (National Strategy on Spatial Planning and the Environment, NOVI). While a policy strategy is by definition strategic and not legally binding, the policy formulated in it must be taken into account in all subsequent, legally binding decisions (at all tiers of government). This means reasons must be given for any departure from that policy. Policy strategies can be adopted by central government and subnational authorities (provinces and municipalities) for their respective territories.

Central government coordination scheme (*rijkscoördinatierегeling*)

The guiding principle of the Spatial Planning Act is that legally binding decisions on spatial planning issues are made by municipalities. Legally binding land-use plans, adopted by the municipal executive, play a key role. By way of exception to this principle, the central government coordination scheme provides for a legally binding national plan for spatial planning projects of national interest. Such a plan is referred to as a central government land-use plan (*inpassingsplan*). Competence to lay down the planning conditions for a project thus shifts from the municipality to central government. All other decisions, such as permitting, required for project implementation are also coordinated at central government level. The central government coordination scheme thus aims to streamline and accelerate decision-making on projects of national interest. The Electricity Act 1998 provides that the central government coordination scheme must be applied without exception to wind farms with a capacity of at least 100MW, as these are always considered to be projects of national interest. In principle, municipalities are no longer competent to make spatial planning decisions on wind farms of this scale. For wind farms with a capacity of less than 100MW, the central government coordination scheme can be declared applicable by means of a separate decision. This decision must be preceded by a comprehensive preparatory procedure, such as parliamentary involvement. The notion that the central government coordination scheme could be declared applicable to wind farms with a small capacity (such as the wind farm in Vianen) is purely theoretical, because such a project cannot be argued to be of national interest. The central government coordination scheme was not applied in the case of the wind farm in Vianen, and in fact this was never considered.

It is relevant to note that a similar scheme exists for provincial coordination in the case of wind farms with a capacity of between 5MW and 100MW. The difference with the central government scheme is that the province will only use its power to lay down a legally binding, provincial land-use plan if the municipality has refused to do so in a regular land-use plan. This was not the case with the Vianen wind farm. The municipality had been prepared to incorporate the wind farm in its spatial planning.

In summary

A policy strategy is a strategic document that is not legally binding, but it must be taken into account in the subsequent process of making legally binding decisions. In other words, the impact of a policy strategy is non-binding and indirect. Under the central government coordination scheme, competence for spatial planning decision-making on a project of national interest is taken over by central government (from municipalities, which are normally the competent authority). This means central government itself adopts a legally binding land-use plan (*inpassingsplan*) for the project.