PREFACE

This book is focused on administrative sanctions and offers a thorough overview of the sanctioning systems of 13 EU Member States. The initial idea for this elaborate and challenging project is based on the impression that although sanctioning powers are of great importance in practice both at EU level and nationally, little comparative study has been done on this subject. More importantly, when studying law enforcement one should study both administrative law and criminal law sanctioning systems. In legal scholarship there is clear division between the scholarship in administrative law and the scholarship in criminal law. In the discussion of deterrent administrative sanctions, such as administrative fines (as we will see, in some legal systems remedial measures are not considered sanctions, only punitive measures are) both areas of scholarship should meet, as according to case law of the ECHR and many national constitutional courts, certain criminal law guarantees apply to administrative sanctions that have a punitive aim. The authors that have contributed to this book are both criminal law specialists and administrative law specialists, and they have all managed to address the theme from the perspective of both disciplines. This approach makes this book special.

The project to arrive at this result started with an international meeting of experts on 16 July 2004. Almost all the authors came to Utrecht that day to discuss the subject-matter and design of the project with each other and with colleagues from the Dutch Ministry of Justice and other practitioners interested in administrative sanctions. In the process of finalising this book since then, authors have updated their contributions, many of them even two or more times. They deserve admiration for their patience with the occasionally headache-inducing process to arrive at this result.

The realisation of the research project would not have been possible without the financial support of the Dutch Scientific Council (NWO) and the Dutch Ministry of Justice.

We would like to thank all colleagues and assistants involved for their efforts in publishing their work in most cases in a non-native language. All translators involved, and especially Maris van der Laak, cannot underestimate the value of their work to this book. Special thanks should also be addressed to Lucia van Tellegen and Lionel van den Berg, both students at the law school of Utrecht.
Preface

University, for their valuable support in finalising this book. And last but not least, we would also like to thank Intersentia for their willingness to publish this book.

We have every confidence that the present book will find its way to everyone who is interested in both administrative law and criminal law, and more precisely in law enforcement and administrative sanctioning.

Utrecht, The Hague,
May 2013
Oswald Jansen
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<td>AACA</td>
<td>Athens' Administrative Court of Appeals</td>
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<td>AAI</td>
<td>Autorités administratives indépendantes – independent administrative agencies</td>
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<tr>
<td>AAFDL</td>
<td>Associação Académica da Faculdade de Direito de Lisboa</td>
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<td>AB</td>
<td>Administratiefrechtelijke beslissingen – Legal periodical</td>
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<tr>
<td>abbb</td>
<td>algemene beginselen van behoorlijk bestuur</td>
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<td>Afdeling bestuursrechtspraak Raad van State – Administrative Jurisdiction Division, Council of State</td>
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<td>ACS</td>
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<td>AFM</td>
<td>Autoriteit Financiële Markten – Authority for the Financial Markets</td>
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<td>Administrative Judicial Procedure Act</td>
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<td>All ER</td>
<td>All England Reports</td>
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<td>AnwBL</td>
<td>Anwaltsblatt</td>
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<td>AO</td>
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<td>AöR</td>
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<td>Aziende Sanitarie Locali – Local health agencies</td>
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<td>a.vv./avv</td>
<td>algemeen verbindend voorschrift – collective binding agreement</td>
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<td>Awb</td>
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<td>AWBi</td>
<td>Algemene wet op het binnentreden – General Act on Entry into Private homes</td>
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<td>Awr</td>
<td>Algemene wet inzake rijkstabelastingen – State Taxes Act</td>
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<td>BAC</td>
<td>Blood Alcohol Concentration</td>
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<td>BZRG</td>
<td>Bundeszentralregistergesetz – Federal Repository Act</td>
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<td>CA</td>
<td>Suomen perustuslaki – Constitution of Finland</td>
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<td>CAP</td>
<td>Common Agricultural Policy</td>
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<td>Cass.</td>
<td>Cour de cassation – Court of Cassation</td>
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<td>CBB</td>
<td>College van Beroep voor het bedrijfsleven – Trade and Industry Appeals Tribunal</td>
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<td>Belgian Criminal Court</td>
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<td>c.c.p.</td>
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<td>Charter of Fundamental Rights of the European Union</td>
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<td>CML Rev</td>
<td>Common Market Law Review</td>
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<td>CNIL</td>
<td>Commission nationale informatique et libertés – National Commission for Computerised Data and Freedom</td>
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<td>COE</td>
<td>Council of Europe</td>
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<td>Const.</td>
<td>Italian Constitution</td>
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<td>c.civ.p.</td>
<td>Code of Civil Procedure</td>
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<tr>
<td>cf.</td>
<td>confer – compare</td>
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<td>c.p.</td>
<td>Código Penal (Criminal Code)</td>
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<td>CPC</td>
<td>Criminal Proceedings Code</td>
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<td>CPP</td>
<td>Código de Processo Penal – Criminal Procedure Act</td>
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<td>Criminal Appeal Reports</td>
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<td>CRP</td>
<td>Constituição da República Portuguesa – Portuguese Constitution</td>
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<td>CRvB</td>
<td>Centrale Raad van Beroep – Central Appeals Tribunal</td>
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<td>Council of State</td>
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<td>DC</td>
<td>Déclaration de conformité -</td>
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<td>DCC</td>
<td>Dutch Criminal Code – Wetboek van Strafrecht</td>
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<td>DCP</td>
<td>Dutch Code of Criminal Procedure – Wetboek van Strafvordering (Sv)</td>
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<td>DMOS</td>
<td>Direito de Mera Ordenação Social – Administrative Offences Law</td>
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<td>DNB</td>
<td>De Nederlandsche Bank N.V. – Dutch National Bank</td>
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<td>DL</td>
<td>Decreto-Lei – Decree-Law</td>
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<td>Departementsserien</td>
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<td>DVBI</td>
<td>Deutsches Verwaltungsblatt</td>
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<td>EEA</td>
<td>Agreement on the European Economic Area</td>
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<td>EEEvrD</td>
<td>Elliniki Epitheorissi Evropaikoou Dikaiou – Revue hellenique de droit Européen</td>
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<td>ECHR</td>
<td>European Convention for the Protection of Human Rights and Fundamental Freedoms</td>
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<td>ECtHR</td>
<td>European Court of Human Rights</td>
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<tr>
<td>EC</td>
<td>European Community</td>
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<tr>
<td>E(E)C</td>
<td>European (Economic) Community</td>
</tr>
<tr>
<td>ECSC</td>
<td>European Coal and Steel Community</td>
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<tr>
<td>ECJ</td>
<td>European Court of Justice</td>
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<tr>
<td>EFET</td>
<td>National Institution for Food Inspection</td>
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<tr>
<td>e.g.</td>
<td>exempli gratia – for example</td>
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<tr>
<td>EGC</td>
<td>The General Court – European Union (formerly known as The Court of First Instance)</td>
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<tr>
<td>EGStGB</td>
<td>Einführungsgesetz zum Strafgesetzbuch – Introductory Law of the Penal Code</td>
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<td>EGVG</td>
<td>Einführungsgesetz zu den Verwaltungsverfahrensgesetzen – Introductory Act for the Acts on Administrative Proceedings</td>
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<td>ENDS</td>
<td>Environmental Data Services</td>
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<td>etc.</td>
<td>et cetera</td>
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<td>EU</td>
<td>European Union</td>
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List of Abbreviations

EU-JZG Bundesgesetz über die justizielle Zusammenarbeit in Strafsachen mit den Mitgliedstaaten der Europäischen Union (Federal Act on the judicial cooperation in criminal matters with the Member States of the European Union)

EU-VSvG Bundesgesetz über die Vollstreckung von Geldstrafen und Geldbußen von Verwaltungsbehörden im Rahmen der Europäischen Union (Federal Act on the execution of financial penalties imposed by administrative authorities of other EU Member States)

EWCW England and Wales Court of Appeal

FGD Fundo de Garantia dos Depósitos – Fund for the Guarantee of Deposits

FGG Gesetz über die Angelegenheiten der freiwilligen Gerichtsbarkeit – German Ex Parte Jurisdiction Act

FIOD-ECD Fiscale inlichtingen- en opsporingsdienst en Economische controledienst – Fiscal Intelligence and Investigation Service/Economic Investigation Service

FPA Freedom of Press Act

FSA Financial Service Authority (of the United Kingdom)

GALA Algemene wet bestuursrecht – General Administrative Law Act

GastG Gaststättengesetz – German Licensing Act

Gem.wet Gemeentewet – Municipalities Act

GewO Gewerbeordnung – Industrial Code

GG Grundgesetz – German Constitution

GPCL General principles of criminal law

GPPA General principles of proper administration

Gst. De Gemeentestem – Legal periodical

GVG Gerichtsverfassungsgesetz – German Judicature Act

Gwwd Gezondheids- en welzijnswet voor dieren – Health and Welfare of Animals Act

HaO Administrative Court of Hämeenlinna

HAO Regional Administrative Court of Kuopio

HE Hallituksen esitykset – Government proposal to parliament for new legislation

HC Hellenic Constitution

Report HC Report of the House of Commons of the United Kingdom

HR Hoge Raad – Supreme Court in the fields of civil, criminal and tax law

Hw Huisvestingswet – Housing Allocation Act

ib./ibid. ibidem – in the same passage or page quoted above
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<td>ICCPR</td>
<td>International Convention on Civil and Political Rights</td>
</tr>
<tr>
<td>i.e.</td>
<td>id est – it is/that is more precisely</td>
</tr>
<tr>
<td>IGA</td>
<td>Inspecção Geral do Ambiente – General Inspectorate for the Environment</td>
</tr>
<tr>
<td>IMOPPI</td>
<td>Instituto dos Mercados das Obras Públicas e Particulares do Imobiliário – Institute for the Market of Public and Private Real Estate Works</td>
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<tr>
<td>IRS</td>
<td>Instituto de Reinserção Social – Institute for the Rehabilitation of Offenders</td>
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<td>JAP</td>
<td>Juristische Ausbildung und Praxisvorbereitung</td>
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<td>JBI</td>
<td>Juristische Blätter – Legal periodical</td>
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<td>JBPlus</td>
<td>Jurisprudentie Bestuursrecht Plus – Legal periodical</td>
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<td>JCL</td>
<td>Journal of Criminal Law – Legal periodical</td>
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<td>JGG</td>
<td>Jugendgerichtsgesetz – Juvenile Court Act</td>
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<td>JM</td>
<td>Jurisprudentie Milieurecht – Legal periodical</td>
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<tr>
<td>JO</td>
<td>Justitieombudsmannen – Parliamentary Ombudsmen</td>
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<td>JOR</td>
<td>Jurisprudentie Onderneming &amp; Recht – Legal periodical</td>
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<tr>
<td>JöR</td>
<td>Jahrbuch des öffentlichen Rechts der Gegenwart – Legal periodical</td>
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<tr>
<td>JUSTICE</td>
<td>United Kingdom section of the International Commission of Jurists</td>
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<td>JV</td>
<td>Jurisprudentie Vreemdelingenrecht – Legal periodical</td>
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<tr>
<td>KB</td>
<td>King’s Bench</td>
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<td>KHO</td>
<td>Korkein Hallinto-Oikeus – Supreme Administrative Court of Finland</td>
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<td>KM</td>
<td>Komiteanmietintö – Committee Reports</td>
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<td>L.</td>
<td>Law</td>
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<td>LDJG</td>
<td>Librairie générale de droit et de jurisprudence</td>
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<td>LSI</td>
<td>Law &amp; Social Inquiry – periodical</td>
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<td>M&amp;M</td>
<td>Markt &amp; Mededinging – Legal periodical</td>
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<td>Michigan LR</td>
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<td>MLR</td>
<td>Modern Law Review – Legal periodical</td>
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<td>Msw</td>
<td>Meststoffenwet – Fertilizers Act</td>
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<td>Mw</td>
<td>Mededingingswet – Competitive Trading Act</td>
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<tr>
<td>NAO</td>
<td>National Audit Office of the United Kingdom</td>
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<td>NbSr</td>
<td>Nieuwsbrief Strafrecht – Legal periodical</td>
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<tr>
<td>NJ</td>
<td>Nederlandse jurisprudentie – Legal periodical</td>
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<td>NJA</td>
<td>Nytt Juridiskt Arkiv, Avdelning I – Publication of cases from the Swedish Supreme Court</td>
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<td>Nederlandse Juristen Vereniging – Dutch Law Association</td>
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<td>NJW</td>
<td>Neue Juristische Wochenschrift – Legal periodical</td>
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<td>NMa</td>
<td>Nederlandse Mededingingsautoriteit – Dutch Competition Authority</td>
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<td>NSIZ</td>
<td>Neue Zeitschrift für Strafrecht – Legal periodical</td>
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<td>NTB</td>
<td>Nederlands Tijdschrift voor Bestuursrecht – Legal periodical</td>
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<td>NVWA</td>
<td>Nederlandse Voedsel- en Warenautoriteit – Dutch Food and Consumer Product Safety Authority</td>
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<td>NZ</td>
<td>Österreichische Notariatszeitung</td>
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<td>OGH</td>
<td>Oberster Gerichtshof – Supreme Court in civil and criminal matters</td>
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<td>ÖJZ</td>
<td>Österreichische Juristen-Zeitung</td>
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<td>OLG</td>
<td>Oberlandesgericht – Regional Appelate Court</td>
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<td>OM</td>
<td>Openbaar Ministerie – Public Prosecution Service</td>
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<td>Onafhankelijke Post en Telecom Autoriteit – Independent Post and Telecommunications Authority</td>
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<td>Public Prosecution Service</td>
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<td>Public Revenue Collection Code</td>
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<td>R.</td>
<td>Rex or Regina</td>
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<tr>
<td>RÅ</td>
<td>Regeringsrätten årsbok – Yearbook of cases from the Swedish Supreme Administrative Court</td>
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<tr>
<td>Rb.</td>
<td>Rechtbank – Regional Court</td>
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<tr>
<td>RF</td>
<td>Regeringsformen – Instrument of Government (Swedish Constitution)</td>
</tr>
<tr>
<td>Abbreviation</td>
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<tr>
<td>RFDA</td>
<td><em>Revue française de droit administratif</em></td>
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<tr>
<td>RGCO</td>
<td>Regime Geral de Contra-Ordenações</td>
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<td>RGICSF</td>
<td>Regime Geral das Instituições de Crédito e das Sociedades Financeiras – General Legal Framework of Credit Institutions and Financial Corporations</td>
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<tr>
<td>RIW/AWD</td>
<td>Recht der Internationalen Wirtschaft / Außenwirtschaftsdienst des betriebsberaters</td>
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<td>RSV</td>
<td><em>Rechtspraak Sociale Verzekeringen</em> – Legal periodical</td>
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<td>RZ</td>
<td>Österreichische Richterzeitung</td>
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<td>SACA</td>
<td>Constitution and Special Act 6 January 1989 concerning the Court of Arbitration</td>
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<td>SAC</td>
<td>Korkein Oikeus – Supreme Administrative Court</td>
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<td>SARI</td>
<td>Special Act of 8 August 1980 concerning the Reform of the Institutions</td>
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<td>SEW</td>
<td><em>Tijdschrift voor Europees en economisch recht</em> – Legal periodical</td>
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<tr>
<td>SFO</td>
<td>Serious Fraud Office</td>
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<tr>
<td>SII</td>
<td>Sistema de Indemnização aos Investidores – System for the Compensation of Investors</td>
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<td>SOU</td>
<td>Statens Offentliga Utredningar – Swedish Government Official Reports</td>
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<td>SSC</td>
<td>Supreme Special Court</td>
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<tr>
<td>StG</td>
<td>Strafgesetz – Criminal Code</td>
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<td>StGB</td>
<td>Strafgesetzbuch – German Criminal Code</td>
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<td>StPO</td>
<td>Strafprozeßordnung – German Code of Criminal Procedure</td>
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<td>Strafrecht AT</td>
<td>Strafrecht Allgemeiner Teil</td>
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<td>Straßenverkehrsgesetz – Traffic Law Code</td>
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<td>StVollzG</td>
<td>Strafvollzugsgesetz – German Penal Administration Act</td>
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<td>SWK</td>
<td>Österreichische Steuer- und Wirtschaftskartei</td>
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<tr>
<td>T&amp;C</td>
<td><em>Tekst &amp; Commentaar</em> – Text and Comments on Dutch Law</td>
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<tr>
<td>TEC</td>
<td>Treaty establishing the European Community</td>
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<tr>
<td>TEU</td>
<td>Treaty on European Union</td>
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<tr>
<td>TFEU</td>
<td>Treaty on the Functioning of the European Union</td>
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<tr>
<td>ToS</td>
<td><em>To Syntagma</em> (The Constitution) – Legal periodical</td>
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<td>TOS</td>
<td><em>Tijdschrift voor Onderneming en Strafrecht</em> – Legal periodical</td>
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<tr>
<td>Tw</td>
<td>Telecommunicatiewet – (Dutch) Telecommunications Act</td>
</tr>
<tr>
<td>UKUT</td>
<td>United Kingdom Upper Tribunal</td>
</tr>
<tr>
<td>UU</td>
<td>Universiteit Utrecht – University of Utrecht</td>
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<tr>
<td>UvA</td>
<td>Universiteit van Amsterdam – University of Amsterdam</td>
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### List of Abbreviations

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<th>Abbreviation</th>
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<tr>
<td>UVSs</td>
<td>Unabhängige Verwaltungssenate der Länder – Austrian Independent Administrative Panels of Provinces</td>
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<tr>
<td>UWG</td>
<td>Gesetz gegen den unlauteren Wettbewerb – Act on Unfair Competition</td>
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<tr>
<td>UZwG</td>
<td>Gesetz über den unmittelbaren Zwang – Immediate Coercion Act</td>
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<tr>
<td>VA</td>
<td>Verwaltungsgakt – Administrative Act</td>
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<td>VAR</td>
<td>Vereniging voor Bestuursrecht – Administrative Law Association</td>
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<td>VAR-reeks</td>
<td>Publicaties Vereniging voor Bestuursrecht – Legal Periodical</td>
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<tr>
<td>VAT</td>
<td>Value Added Tax</td>
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<tr>
<td>vid. (infra)</td>
<td>vide (infra) – see (below)</td>
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<tr>
<td>VR</td>
<td>VerkeersRecht – Legal Periodical</td>
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<tr>
<td>VU</td>
<td>Vrije Universiteit – VU University of Amsterdam</td>
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<tr>
<td>VwGH</td>
<td>Verwaltungsgerichtshof – Administrative Court</td>
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<tr>
<td>VwGO</td>
<td>Verwaltungsgerichtsordnung – Rules of the Administrative Courts</td>
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<tr>
<td>VwVfg</td>
<td>Verwaltungsverfahrensgesetz – Administrative Procedural Law</td>
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<tr>
<td>VwVG</td>
<td>Verwaltungsvollstreckungsgesetz – Administration Enforcement Law</td>
</tr>
<tr>
<td>VfGH</td>
<td>Verfassungsgerichtshof – Constitutional Court</td>
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<tr>
<td>VfSlg</td>
<td>Sammlung der Erkenntnisse und wichtigsten Beschlüsse des Verfassungsgerichtshofes – Collection of the decisions and most important orders of the Austrian Constitutional Court</td>
</tr>
<tr>
<td>VStG</td>
<td>Verwaltungsstrafgesetz – Austrian Act on Administrative Criminal Law (in Germany, Vermögenssteuergesetz)</td>
</tr>
<tr>
<td>VwSlg</td>
<td>Sammlung der Erkenntnisse und Beschlüsse des Verwaltungsgerichtshofes – Collection of the decisions and most important orders of the Austrian Constitutional Court</td>
</tr>
<tr>
<td>Wabm</td>
<td>Wet algemene bepalingen milieuhygiëne – Environmental Protection (General Provisions) Act</td>
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<tr>
<td>Wabo</td>
<td>Wet algemene bepalingen omgevingsrecht – Environmental Permitting (General Provisions) Act</td>
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<tr>
<td>Wav</td>
<td>Wet arbeid vreemdelingen – Foreign Nationals (Employment) Act</td>
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</tbody>
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List of Abbreviations

Wahv Wet administratiefrechtelijke handhaving verkeersvoorschriften (also: Wet Mulder) – Traffic Regulations (Administrative Enforcement) Act
Wbp Wet bescherming persoonsgegevens – Personal Data Protection Act
WDO Wehrdisziplinarordnung – German Military Disciplinary Code
Wed Wet op de economische delicten – Economic Offences Act
Wet idbb Wet introductie dwangsom en bestuurlijke boete – Act on the Introduction of Penalty Payments and Administrative Fines (Financial Legislation) Act
Wet ion Wet informatie-uitwisseling ondergrondse netten – Underground Grids (Information Exchange) Act
Wet Mulder Wet administratiefrechtelijke handhaving verkeersvoorschriften (also: Wahv) – Traffic Regulations (Administrative Enforcement) Act
Wft Wet financieel toezicht – Financial Supervision Act
WGB Wet gewasbeschermingsmiddelen en biociden – Plant Protection Products and Biocides Act
Wgp Wet marktordering gezondheidszorg – Health Care (Market Regulation) Act
Whc Wet handhaving consumentenbescherming – Consumer Protection (Enforcement) Act
Wira Wet implementatie rechtsbeschermingsrichtlijnen aanbesteden – Improving the Effectiveness of Review Procedures concerning the Award of Public Contracts Directive (Implementation) Act
Wkkp Wet Kinderopvang en kwaliteitseisen peuterspeelzalen – Childcare Provisions Act and Quality Requirements for Playschools
Wm Wet milieubeheer – Environmental Management Act
Wr Wet ruimtevaartactiviteiten – Space Activities Act
Wro Wet ruimtelijke ordening – Spatial Planning Act
WRV Weimarer Reichsverfassung – Weimar Reich Constitution
WStG Wehrstrafgesetz – Military Criminal Code
Wtt Wet toezicht trustkantoren – Trust Offices (Supervision) Act

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<th>Abbreviation</th>
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<tbody>
<tr>
<td>Wwft</td>
<td>Wet ter voorkoming van witwassen en financiering van terrorisme – Money Laundering and Terrorist Financing (Prevention) Act</td>
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<td>ZfV</td>
<td>Zeitschrift für Verwaltung – Legal periodical</td>
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<td>ZPO</td>
<td>Zivilprozessordnung – Code of Civil Procedure</td>
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<td>ZVR</td>
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