

# THE CRIMINAL JUSTICE SYSTEM OF THE NETHERLANDS



THE CRIMINAL JUSTICE  
SYSTEM OF THE NETHERLANDS

Organization, substantive criminal law,  
criminal procedure and sanctions

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## FOREWORD

This publication should have been the fifth edition of my book *The Dutch criminal justice system*. Other projects, however, such as the production of comparative law reports for the new Dutch Code of Criminal Procedure, demanded my attention. In the meantime – eight years after obtaining the status of emeritus – the Dutch criminal legal system went through various changes. A new edition could not be postponed.

In agreement it was decided that my colleague and friend Prof. Dr. Piet Hein van Kempen and his staff (the department of criminal law and criminology of Radboud University) would be free to rewrite a new edition of my book. I am exceptionally delighted with the results.

The Dutch criminal legal system has always been of interest to foreign experts, because of its remarkable differences with other European systems. For example, lay judges are not a part of our system. Also, rules on sentencing are limited. Consequently, Dutch judges have great liberty imposing penalties.

This new edition is an extended version of the previous editions. Not only information on the different doctrines of Dutch criminal law has been supplemented, but also more examples and references to additional sources (literature and case law) have been included. Even more than the previous editions, this book offers thorough knowledge of the Dutch criminal legal system. This will undoubtedly generate opportunities for our system to be included in comparative law projects. All in all, the fact that a group of knowledgeable authors has reshaped this book in its current form, retaining and consolidating its scientific standard, fills me with gladness and contentment.

Prof. em. Peter J.P. TAK  
Nijmegen, December 2019



## PREFACE

Before you lies the first edition of *The criminal justice system of the Netherlands. Organization, substantive criminal law, criminal procedure and sanctions*. This book is based on its prequel: *The Dutch criminal justice system* (Wolf Legal Publishers, 2008) by Prof. Dr. Peter Tak, professor emeritus at Radboud University in Nijmegen, the Netherlands. Professor Peter Tak has been so generous to make his text available to us, so we could build upon his work. We owe him many thanks for his generosity and for the confidence he gave us.

We are also very thankful to the co-authors of this book: Joeri Bemelmans, Masha Fedorova, Roel Klaar, Maarten Kuipers, Sjarai Lestrade, Geert Pesselse, Henny Sackers, Martine van der Staak and Mikhel Timmerman. Many thanks go out to them, not only for their contributions but also for your patience.

The authors of this book are all specializing in the field of Dutch criminal law. Their common denominator is that they work or, at some point in time, have worked at the department of Criminal Law & Criminology of Radboud University. More information on individual authors is available at the beginning of each chapter, where a bibliographical note is included.

We wrote this book not only for students, but also for foreign researchers and everybody else who is interested in the general basics of the criminal justice system of the Netherlands. The topics discussed in this book are the doctrines of our Bachelor curriculum. However, we aim to bring these topics to you from a 'foreign perspective'. That is, while writing this book the authors thought of aspects of our criminal justice system that would be of specific interest to foreigners. For example, the powers of the Dutch public prosecutor, the Dutch anti-terrorism legislation and our drug policy.

We included a modest amount of references to case law, websites and more detailed (if possible English) texts, in order to support readers who desire a more thorough understanding of a specific topic in the field of Dutch criminal law. References to Dutch case law in this book not only mention journals, but also the so called 'ECLI numbers'. An ECLI number looks like this: ECLI:NL:HR:2016:2418. By inserting this number into a search engine (preferably [rechtspraak.nl](http://rechtspraak.nl), but Google will also do) the court decision can be found easily.

This book also offers references to literature, including the two major handbooks of Dutch criminal law: *Materieel strafrecht* by J. de Hullu (Wolters Kluwer, 7<sup>th</sup> edition, 2018) on substantive criminal law and *Het Nederlands strafprocesrecht* by G.J.M. Corstens, M.J. Borgers & T. Kooijmans (Wolters Kluwer, 9<sup>th</sup> edition, 2018) on criminal procedure. In order to avoid an overkill of detailed footnotes, references to these works are usually clustered at the beginning or end of a specific section.

The book furthermore contains many references to parliamentary documents (*Kamerstukken*) and to the Bulletin of Acts (*Staatsblad*).

We could go on with reading instructions for quite a while, but it is probably better for you to start reading. We hope this book will introduce you to the basic concepts of Dutch criminal law and will trigger your enthusiasm for further exploration of our fascinating legal system.

Nijmegen, December 2019

Piet Hein VAN KEMPEN, Maartje KRABBE & Sven BRINKHOFF



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