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National legislation

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Netherlands



Netherlands

This page provides you with information about the judicial system in the Netherlands. The Dutch Government consists of the Ministers and the King. To that extent, the Netherlands is something of an exception among the Western European monarchies, in most of which the monarch is not part of the government. Since the comprehensive review of the Constitution in 1848 the Netherlands has been a constitutional monarchy with a parliamentary system.

Sources of law

Types of legal instrument - description

The Constitution provides the framework for the organisation of the Dutch state and forms the basis for legislation. Treaties between the Netherlands and other states are a major source of law. Article 93 of the Constitution stipulates that provisions of treaties and of decisions by international institutions may have direct effect in the Dutch legal system, in which case these provisions take precedence over Dutch laws. Statutory measures that are in force within the Kingdom of the Netherlands do not apply if they are incompatible with those provisions. Therefore, the rules of the European Union laid down in treaties, regulations and directives are a major source of law in the Netherlands.

The Charter for the Kingdom of the Netherlands governs the constitutional relationship between the Netherlands, Aruba, Curaçao and Sint Maarten.

Laws are made at national level. By means of delegation by law, the central government may lay down (further) rules in orders in council and in ministerial regulations. Independent orders in council (which are not derived from a law) are possible too. The Constitution confers regulatory authority upon the lower bodies under public law (provinces, municipalities and water boards).

Case law is a source of law, as court rulings have wider significance than the specific case in which the ruling was pronounced. The rulings of higher courts serve as guidance. Rulings of the Supreme Court are particularly authoritative as the task of this court is to promote uniformity in the law. In new cases, therefore, the lower court will consider a ruling of the Supreme Court when reaching judgment.

General principles of law are of relevance to government and the dispensation of justice. Sometimes the law refers to general principles of law, like the Civil Code does (reasonableness and fairness). The court may also take its cue from general principles of law when passing judgment.

Customary law, also known as unwritten law, is a further source of law. In principle, a custom is only relevant if the law refers to it, but still the court may take account of custom in its judgment in the event of conflict. Customary law cannot be a source of law when establishing a criminal offence (Article 16 of the Constitution).

The hierarchy of sources of law

Article 94 of the Constitution states that some rules of international law take hierarchical precedence: statutory provisions that are incompatible with these rules of international law do not apply. European law, by its nature, takes precedence over national law. This is followed by the Charter, the Constitution and Acts of Parliament. These rank above other measures. Acts of Parliament are adopted jointly by the government and the States General (the people's elected representatives).

It is also stipulated that a law may wholly or partly lose its effect only as a result of a subsequent law. In addition, there is a general rule of interpretation that specific laws rank above general laws. Furthermore, in the continental tradition, written law is considered to be a higher source of law than case law.

Institutional framework

The authorities responsible for adopting legal provisions

The legislative process

Acts of Parliament are adopted jointly by the government and the States General. Legislative proposals can be submitted by the government or the Lower House of the States General. The Council of State advises on legislative proposals, as well as on orders in council. Other stakeholders are generally consulted when a legislative proposal is being prepared.

Usually, the Council of Ministers adopts legislative proposals and sends them to the Advisory Division of the Council of State for its recommendation. The government responds to that recommendation by drawing up a further report. Then, the government sends the legislative proposal – with any necessary amendments – to the Lower House by Royal Message. The proposal may be amended while it is being debated by the Lower House. It is the Lower House that has the right of amendment. Once it has been accepted by the Lower House, the Upper House debates the proposal. The Upper House may only adopt or reject the legislative proposal. No further amendments may be made at this stage. Once it has been accepted by the Upper House, the legislative text is signed by the King and the Minister, after which it becomes law.

Legal databases

[Overheid.nl](https://overheid.nl) is the central access point for all information about the government organisations of the Netherlands. This page provides access to local and national legislation.

[Officiëlebezoekingen.nl](https://officiëlebezoekingen.nl) provides access to the official gazettes ('*Staatsblad*', '*Staatscourant*' and '*Tractatenblad*'). You can also find all Dutch Parliament publications on the website.

Is access to the database free of charge?

Access to the websites is free of charge.

Related links

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