Law and Legal Skills: the Dutch Example (LLS)

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dep. : Department of Legal Methods

University of Groningen

- 1614
- 11 different faculties
- 34.000 students; 8.250 international students (120 different nationalities)
- Education and research
- Nothing tops Groningen

NOTHING TOPS GRONINGEN

Outline & objectives

1. Introduction to the course LLS
2. Legal systems
3. What is law?
4. Sources of Dutch Law
5. Areas of Dutch Law
6. Dutch judiciary

Objectives of this course

- Introductory course of 7 weeks
  - Preparation for following courses

- **Part 1 'Law'**
  - Understand the workings of a legal system in general via the Dutch system

- **Part 2 'Skills'**
  - Obtain legal skills (to study law):
    - Analysing legal texts (literature, case law, etc.)
    - Solving cases and legal problems
    - Legal research

Course outline

- **Part 1 'Law'**
  - Weekly lecture (Monday) + tutorial (Tuesday+Wednesday)
- **Part 2 'Legal Skills'**
  - Weekly lecture (Wednesday) + tutorial (Thursday + Friday)

10 ECTS course = 280 study hours total

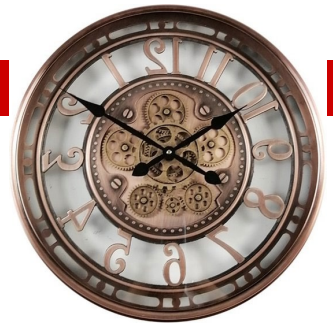
- 1 ECTS = 28 hours
- Per week 40 hours of study incl. lectures/tutorials.

Lectures

- ‘**Law**’ every Monday from 11:00 till 13:00
  - Face to face on-site lecture: Offerhauszaal + Zernikezaal

- ‘**Skills**’ every Wednesday from 15:00 till 17:00
  - Face to face on-site lecture: Offerhauszaal + A900

  - Note: livestream



Tutorials

- 2 tutorials per week for 6 weeks:
  - Law
  - Legal Skills
- **Schedule generator** (rooster.rug.nl)
- Every tutorial is on-site
- Not enrolled yet? Enroll in Progress
- Reminder: compulsory participation

Law lectures (Monday)

Week	Field of Law	Lecturer
1	Introduction	Schipaanboord, LLM
2	Constitutional Law	Runia, PhD
3	Administrative Law	Schipaanboord, LLM
4	Criminal Law	Schipaanboord, LLM
5	Private Law (Contract law)	Runia, PhD
6	International Law	De Boer, PhD
7	Exam Preparation	Schipaanboord, LLM & Van Tongeren, PhD

Dutch (university) culture

- Informal and direct
- Participation in class
- Punctual
- No gifts

Check out the *FAQ*, the *10 Golden Rules* and *Code of Conduct*!

Compulsory participation

Attendance and active participation

- Be present 4 out of 6 tutorials both for law and skills;
- Come prepared to class and participate actively during the tutorials;
- To be on time and to bring readers and answers to the questions.

One does not meet the requirements? One loses the right be awarded with a grade for both sits. Result: one has to retake the course next year when the same requirements apply!

Force majeure? After three missed tutorials -> study advisors.

Weekly assignments

For both parts -> Law and Legal Skills (see Reader with course content and questions)

WEEK 1 – INTRODUCTION

Reading (available in the Reader with Literature):
- S. Taekema, *Understanding Dutch Law*. Den Haag: Boom Juridische Uitgevers 2020, Chapter 1 and Chapter 3, par. 1-2.7.
- J. Hage, 'Basic Concepts of Law', in: J. Hage, A. Waltermann, B. Akkermans, *Introduction to Law*, Cham: Springer International Publishing 2017, Chapter 3, par. 1-3.
  Available as e-book: https://link.springer.com/content/pdf/10.1007%2F978-3-319-57252-9_3.pdf

Assignments:
- Answer the questions below.

! Always explain your answer and read or refer to the relevant articles from your Reader with Legislation!

WEEK 1 ANALYSING LEGISLATION AND CASE LAW: AN INTRODUCTION

Reading:
- Text below on how to find and read legislation and on how to analyse case law
- the following judgment of the European Court of Human Rights: Case of Hamidovic v. Bosnia and Herzegovina (2018), application number 57792/15

Assignments:
1. make the assignment 'Finding and reading legislation'
2. make the assignment 'Case of Hamidovic v. Bosnia and Herzegovina'

Note on finding legislation:
Please use your Reader with legislation as much as possible; if it's necessary you can also find legislation online. Useful for finding legislation is:
- *Law Libguide*, retrieved from libguides.rug.nl/law

Criteria for assignments

- Answer every assignment
- Substantiate your answers
- Reference to relevant legislation and/or case law

-> best preparation for the exam!!

Reader with course content and questions & FAQ!

Excuses....

Assignments

- Correct your own work
- No individual feedback
- Correct answers are discussed in the tutorials
- Improve reading and analytical skills

Course materials

Readers:

- Reader with course content and questions (on Brightspace)
- Reader with Legislation part 1 + part 2 (order at readershop)
- Reader with Literature (order at readershop)

Book: Vols, M. (2021). Legal research: one hundred questions and answers. Den Haag: Boom Juridisch

Access to Brightspace (!)

How to pass?

- See: Reader with course content and questions
- Law: maximum of 100 points +
- Legal Skills: maximum of 100 points /20

-> One needs 110 points to pass the course!

- Exam: 28 October 2025 (concept), at 18.15
- Resit: 26 January 2026 (concept), at 18.15

How to pass?

- Come to the lectures and tutorials!
- Study the literature!
- Complete the weekly assignments!
- Stay on track: don't wait for the exam period to study!
  Note: lecture recordings = too late!
- Questions? Ask!
- Come to the Exam Preparation (wk 7)!

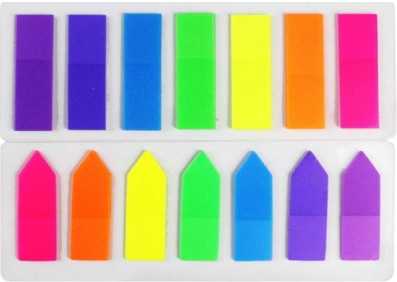
In class :
$2+2=?$

Homework :
$7^2x5-8= ?$

In exam :
$522(2x^3y)+982,523=?$

How to pass the exam?

- Closed book exam
- Digital copy of Readers with Legislation provided
- Bring readers with legislation to lectures and tutorials!



- ALLOWED: Highlights, underlining and ***blank*** tabs
- NOT ALLOWED/NOT ADVISED TO: words, letters, numbers, symbols, arrows, coding

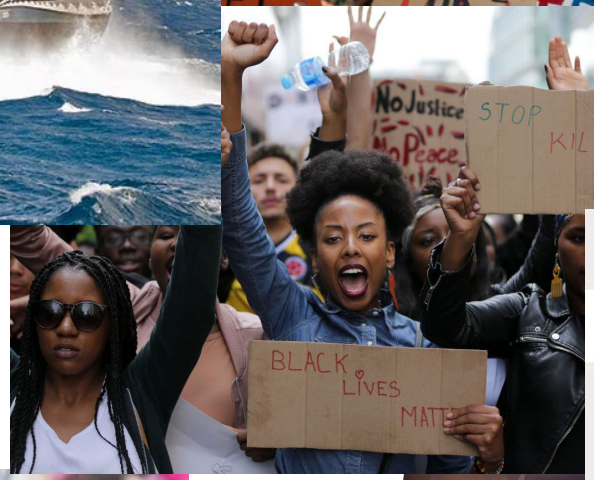
-> "Understanding the system instead of designing a new one"

Law?

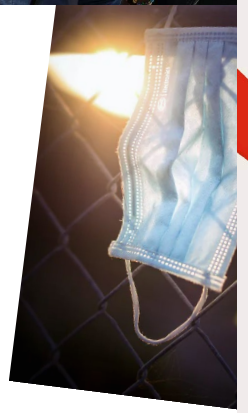
SEA SHEPHERD.ORG

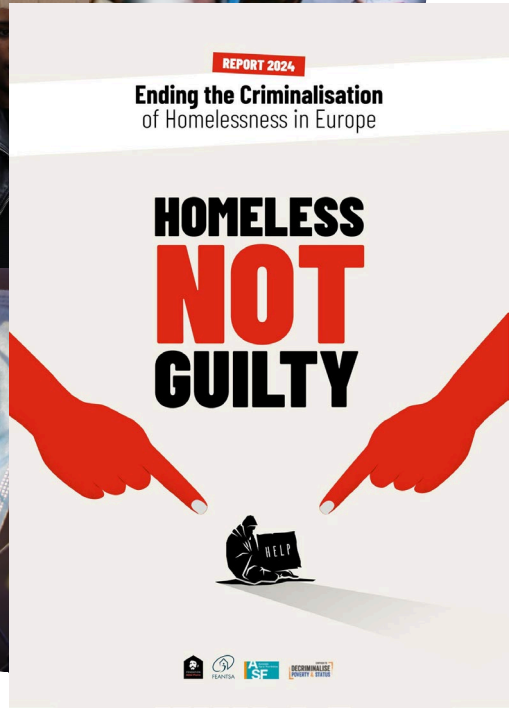
RESPECT
LGBTQ+
HUMAN
DIGNITY

MAKE THE WORLD
I WANT A
HOT DATE NOT
WAKE
THERE IS
NO
PLANET
B


No Justice
No Peace
STOP
KILLING
BLACK
LIVES

I WILL NOT
GO QUIETLY
BACK TO THE
1950s.
YOU ARE




REPORT 2024
Ending the Criminalisation
of Homelessness in Europe
HOMELESS
NOT
GUILTY
HELP

CIVIL LAW
COMMON LAW
MUSLIM LAW
CUSTOMARY LAW
MIXED SYSTEM
NORTH AMERICA
WEST INDIES
CENTRAL AMERICA
SOUTH AMERICA
EUROPE
ASIA
MIDDLE EAST
AFRICA
SOUTH EAST ASIA
OCEANIA

Two main legal systems

Civil law

- Codification
- French and German legal tradition

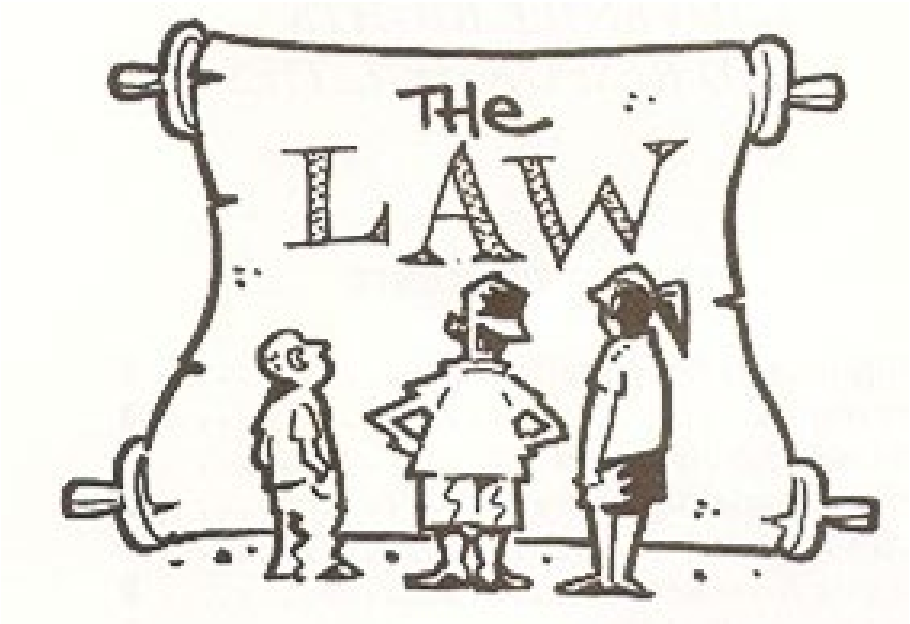
Common law

- Judge-made law
- English legal tradition

I. Law?

I. Law?

- Body of rules of conduct with binding legal force and effect, which are prescribed, recognized and enforced by a controlling authority.



I. Law?

Functions of law

- Avoiding conflicts: regulation
  - <u>Substantive law</u>
    - Rights, obligations, prohibitions

- Resolving conflicts
  - <u>Procedural law</u>
    - Procedures by which rights, obligations and prohibitions can be enforced

Functions of law

Sources of law

- Treaties
- Judicial rulings
- Statutes
- Custom
- Principles
- Religious texts
- Moral believes
- (…)

Dutch sources of law

Treaties

Principles

Judicial rulings

~~Religious texts~~

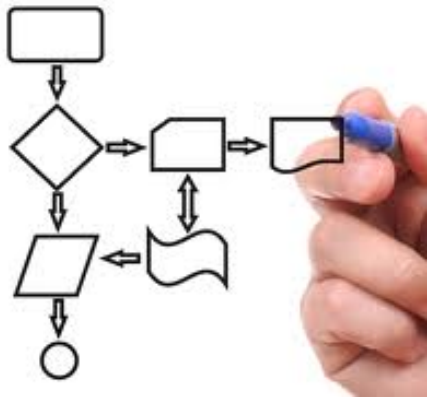
Statutes

~~Moral believes~~

Custom

(…)

Written/unwritten law



a) Enacted law (written)
- Treaties
- Constitution
- Statutory law
  - Statutes from the formal legislator
  - Other legislation from lower authorities

b) Unwritten law
- Case law
- Custom
- Principles

Two main legal systems

Civil law

- Codification
- French and German legal tradition

1. **Enacted law (written law)**
2. Case law (unwritten law)

Common law

- Judge-made law
- English legal tradition

1. **Case law (unwritten law)**
2. Enacted law (written law)

a) Treaties

- Aka Conventions, Pacts, Protocols
  - International legislation
  - Bilateral or multilateral
  - Articles 90-93 Dutch Constitution (C.)

b) Constitution

- Basic (human) rights
- Foundation of governmental organisation, e.g.:
  - Independent judiciary
  - Elections
  - Governmental bodies with law-making power

c) Statutes

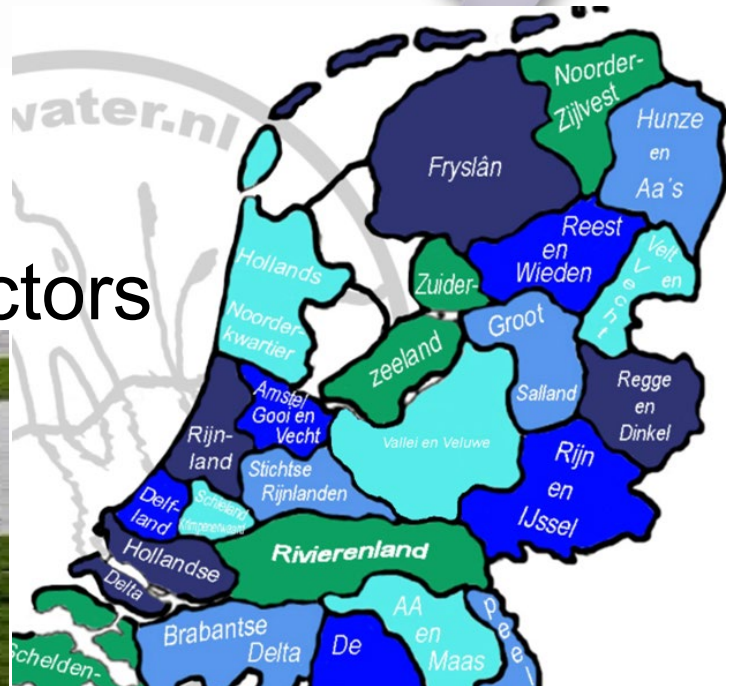
- Statutes from formal legislator
  - Art. 81 C.: government **and** Parliament together

- Legislation from lower authorities
  - Order in Council / Royal Decree / Govern. Regulation -> Government
  - Regulations -> Minister
  - Bylaws -> Provincial States, Municipal Councils, management of Water Boards

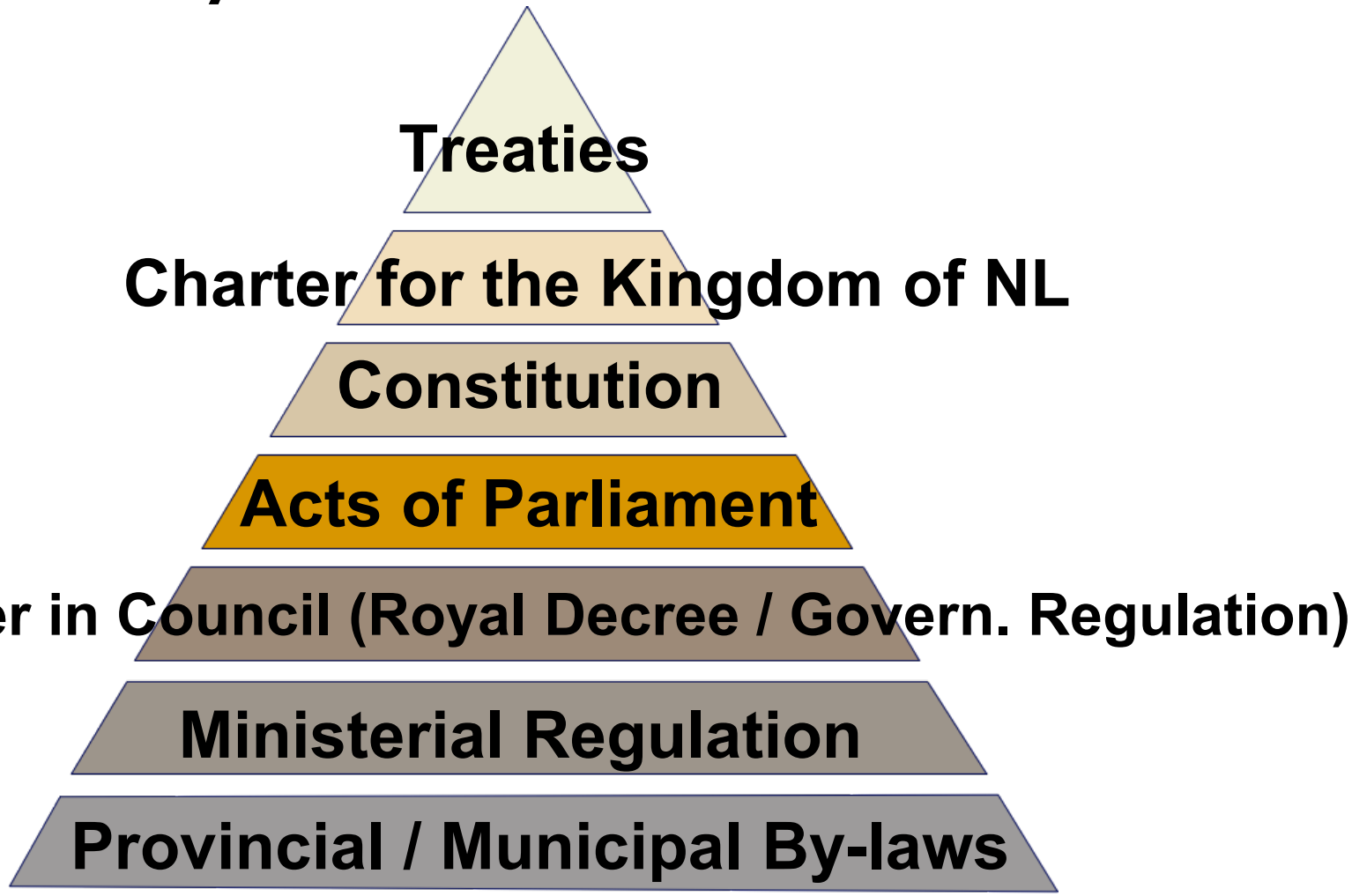
Provinces / Provincial States

Municipality / municipal council

Water board / board of directors



Hierarchy – Dutch enacted law



Enacted law: hierarchy and conflict rules

1. Higher rule prevails over lower rule

2. Newer (later) rule prevails over earlier (older) rule

3. Specific rule prevails over general rule

Enacted law: hierarchy and conflict rules

- Specific rule prevails over general rule

Art. 300 Criminal Code: assault

Art. 302 Criminal Code: aggravated assault

Sources of law

a) Enacted law (written)
- Treaties
- Constitution
- Statutory law
  - Statutes from the formal legislator
  - Statutes from lower authorities: regulations & bylaws

b) Unwritten law
- Case law = judicial rulings
- Custom
- Principles

b) Unwritten sources

Case law = Rulings of judges

- additional source in Neth.
- No formal principle of precedent -> no *stare decisis*

- However, in practice courts abide rulings of highest court (e.g. Supreme Court).

b) Unwritten sources

- <u>Customary law</u>
  - Usus & opinio iuris
    - E.g. bargaining at cattle market
    - E.g. confidence rule

- <u>General principles</u>
  - Supplement law
    - Estoppel principle: Can a grandson who murdered his grandpa be the beneficiary?
    - General principles of good governance

Position General principles

- **Treaties**
- **Charter of the Kingdom**
- **Constitution (GW)**
- **Acts of Parliament**
- **Orders in Council (Governmental decrees)**
- **Ministerial regulations**
- **Provincial/Municipal By-Laws**

Principle freedom of contract

Principle of honoring promises

Estoppel-principle

Areas of law

Two distinctions:

A. Public Law – Private law

B. Substantive Law – Procedural law

A) Public – private law

Private law (wk 5)	PRIVATE PARTIES: natural persons or legal persons
Public law (wk 2-4, 6)	GOVERNMENT – PRIVATE PARTIES

<u>Constitutional law</u>

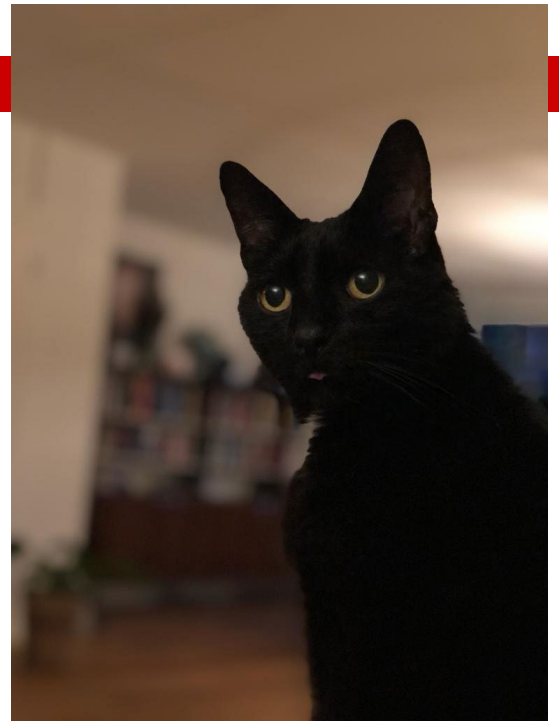
State organization

<u>Administrative law</u>

Governs actions towards private parties (permits, subsidies etc.)

<u>Criminal law</u>

Criminal acts; police, public prosecutor



A) Private law

- Individual interest
  - Natural persons – natural persons
  - Natural persons - legal persons
  - Legal persons – legal persons
    - E.g. corporations or associations
    - Also State, Province, Municipality *when acting as a private party*

- NB Also known as civil law

A) Public law

- State authorities – private parties

A) Public law

› Public interest

- <u>Constitutional Law</u>
  - State and its organs
- <u>Administrative Law</u>
  - Administrative authorities and citizens
- <u>Criminal Law</u>
  - Criminal offences, investigation and prosecution
  - Monopoly of Prosecution Service

B) Substantive and procedural law

Functions of law

- Avoiding conflicts: regulation
  - Substantive law
    - Rights, obligations, prohibitions
- Resolving conflicts
  - Procedural law
    - Procedures by which rights, obligations and prohibitions can be enforced

B) Substantive law and procedural law

- Substantive law> rules establishing rights, obligations and prohibitions

- Procedural law> rules regulating procedures by which rights, obligations and prohibitions are enforced

- Let’s mix all the concepts!

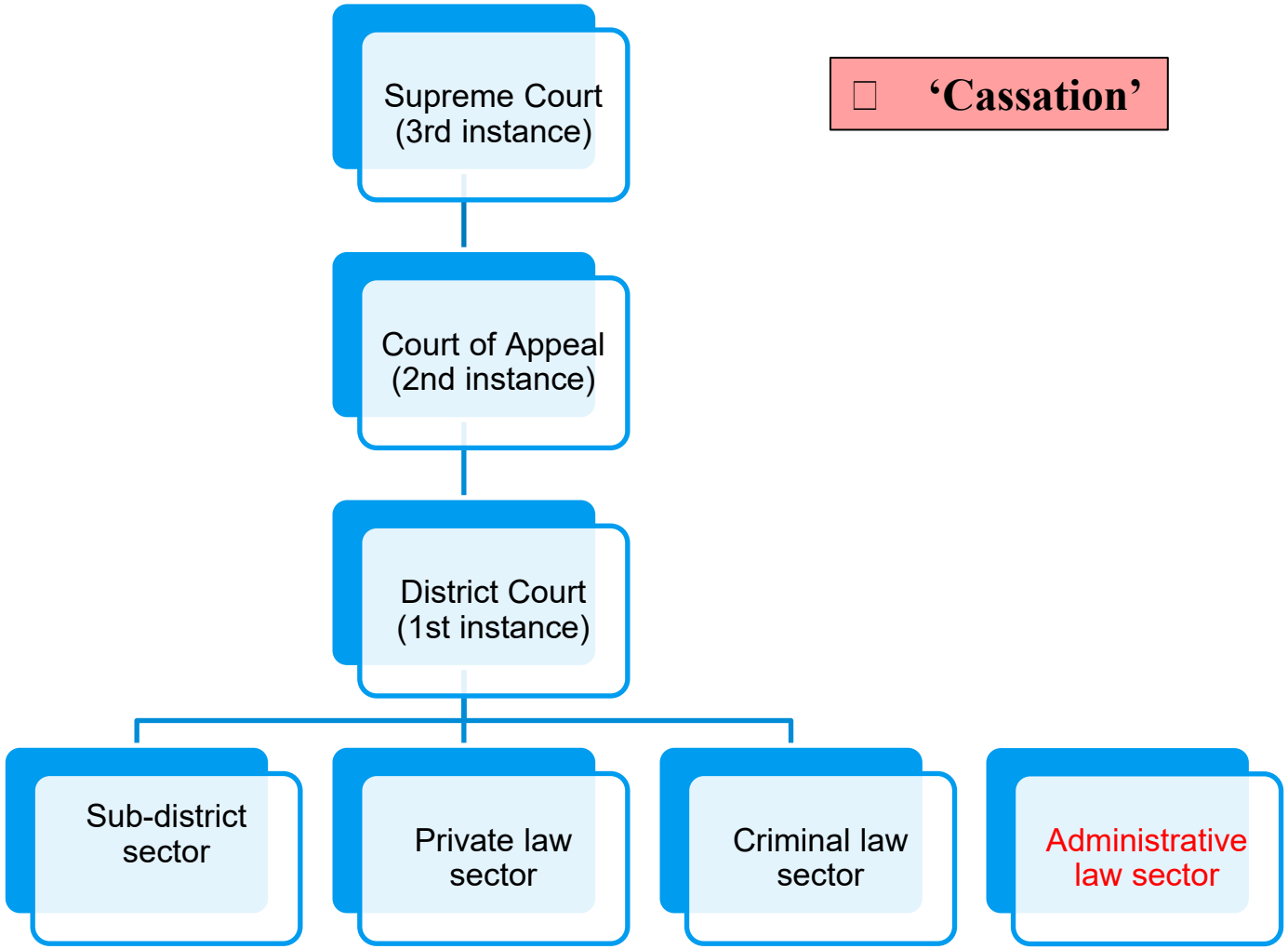
Areas of law: overview

	Private law	Public Law		
	Civil/Private law	Criminal law	Administrative law	Constitutional law
Substantive law	Civil Code	Criminal Code	GALA	Dutch Constitution
Procedural law	Code of Civil Procedure	Code of Criminal Procedure	GALA	Unwritten law

Dutch judiciary

de Rechtspraak

Dutch Court system



‘Cassation’

Cassation

- Supreme Court decides
  - *only* on whether law was applied properly
  - not on questions of fact -> lower courts

- Options:
  - nullify (quash) and refer back to the same court
  - nullify and refer to another court
  - overrule and pass judgment itself (if facts are clear)

Dutch judiciary

Five basic principles

1) independent judges
2) impartial judges
3) public court hearings
4) justice administered in three instances
5) within reasonable time-frame

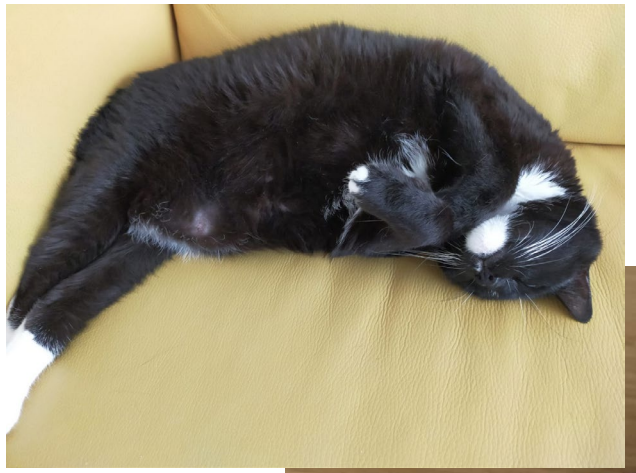
› Check Article 6 European Convention on Human Rights (ECHR)

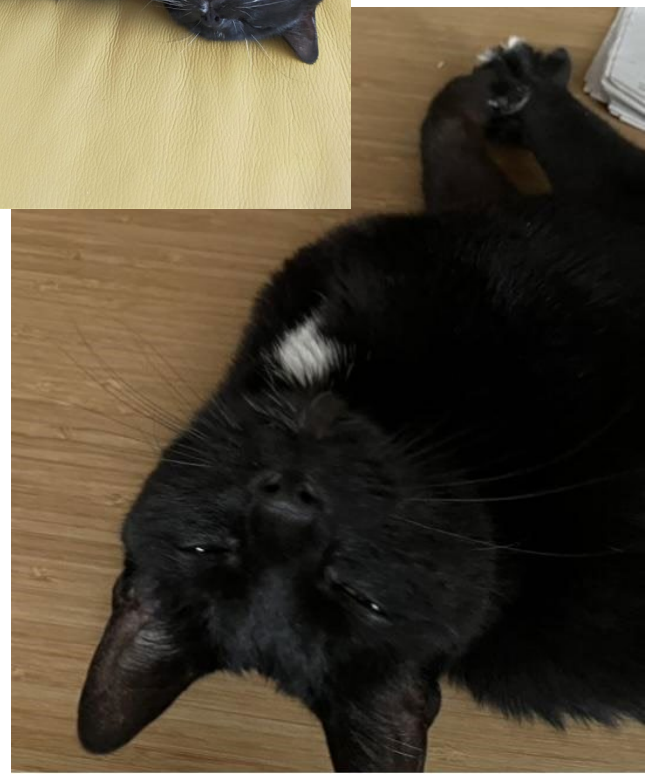
Outline & objectives

1. Introduction to the course LLS
2. Legal systems
3. What is law?
4. Sources of Dutch Law
5. Areas of Dutch Law
6. Dutch judiciary

Questions ?

Thank you for your attention, don’t forget to prepare for the tutorials and to be there on time!





Consultation hour: Mondays September 1 – October 13, from 16.00-16.30, room 1L, Roling building.