



# NETHERLANDS PUBLIC PROSECUTION SERVICE AT A GLANCE

OPENBAAR MINISTERIE



'JUSTICE IS A  
CORE VALUE OF  
OUR DEMOCRACY'



# JUSTICE

THE NETHERLANDS PUBLIC  
PROSECUTION SERVICE IS  
RESPONSIBLE FOR INVESTIGATING AND  
PROSECUTING CRIMINAL OFFENCES



For a society to function efficiently and fairly laws are needed. People are not, for example, allowed to use violence, steal or damage property, and there are rules to ensure traffic safety. If someone fails to respect the law, someone else may lodge a complaint with the police. Or the police can arrest the offender. A suspect may also be arrested by a member of the public if they are caught in the act.

**I**n the Netherlands, only judges and – in minor cases – the public prosecution service may impose punishment. Crucially, a person may be punished only if it has been established that he or she is in fact guilty of the offence in question. Doing this requires investigation and an independent judiciary.

After all, in our democracy governed by the rule of law, justice is a core value. Suspects, victims and society as a whole must have the confidence that they will be properly represented in criminal proceedings. The sentence must also be in proportion to the crime that was committed and provide justice for those affected by it.

The Public Prosecution Service is responsible for investigating and prosecuting criminal offences on behalf of society at large. Its work is aimed at ensuring that those who commit crimes are punished appropriately, that victims and next of kin feel that someone is on their side, and that the Dutch

public are confident that the law of the Netherlands are applied fairly and correctly.

### The judiciary

The Public Prosecution Service and the courts together make up the judiciary. The Public Prosecution Service is responsible for the enforcement of criminal law. It is the only institution that decides who has to appear before a criminal court and on what charge.


The Public Prosecution Service's main tasks are:

- supervising the police in the investigation of criminal offences
- prosecuting criminal offences and bringing suspected offenders before the courts
- dealing with criminal offences without involving the courts

The Public Prosecution Service concerns itself only with criminal law. It therefore has no involvement in civil matters such as rent disputes, labour issues or divorce proceedings. •

# INVESTIGATION

The police carry out criminal investigations. They collect evidence, interview witnesses and victims, and arrest and question suspects. The police are required to keep a complete record of each case in the form of an official report.

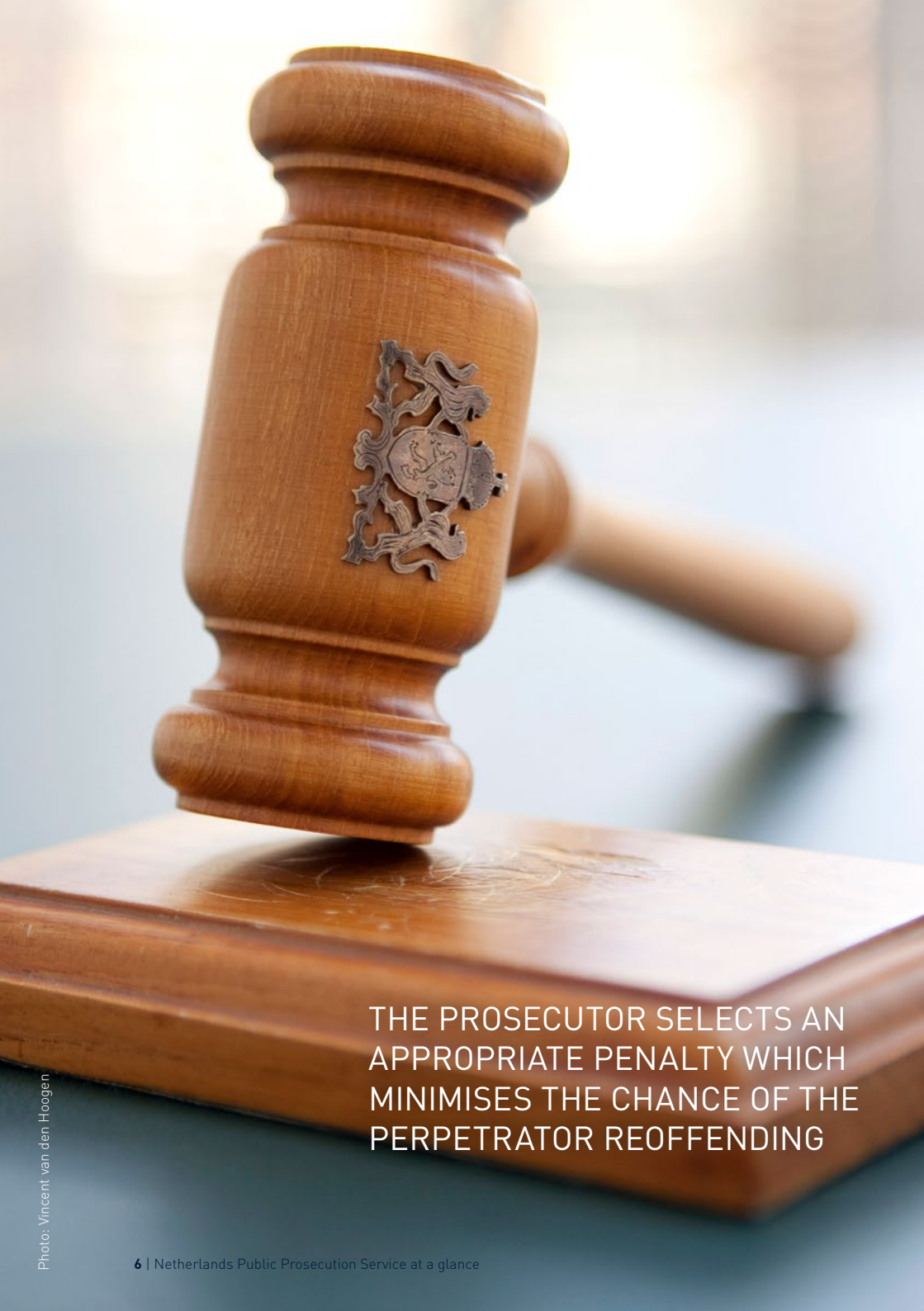


## THROUGHOUT THE PROCESS, THE PUBLIC PROSECUTOR ENSURES THAT THE POLICE FOLLOW ALL THE RULES AND PROCEDURES LAID DOWN BY LAW

**T**he prosecutors at the Public Prosecution Service have ultimate responsibility for investigations and – especially where serious offences are concerned – they supervise the police during the investigation. Throughout the process the public prosecutor ensures that the police follow all the rules and procedures laid down by law and take account of all relevant information.

Public prosecutors can issue instructions to the police. In some cases they must first obtain permission from the court, for example to tap a phone or search a home or computer. The methods the police and Public Prosecution Service use when investigating criminal offences must be proportionate to the offence and therefore may not be too heavy-handed. This too is a matter of justice.

The Public Prosecution Service is also responsible for supervising criminal investigations carried out by other authorities, such as the municipal social services, the Fiscal Intelligence and Investigation Service and the Food and Consumer Product Safety Authority. •



THE PROSECUTOR SELECTS AN  
APPROPRIATE PENALTY WHICH  
MINIMISES THE CHANCE OF THE  
PERPETRATOR REOFFENDING





# PROSECUTION

The Public Prosecution Service may decide to bring a case before the court, but it also has various options for disposing of a criminal case itself: the so-called opportunity principle.

## Imposing a sanction

The public prosecutor can dispose of minor criminal cases, such as criminal damage, vandalism, shoplifting and traffic violations, by imposing a sanction (*strafbeschikking*). In this situation the case is not brought before the court.

The Public Prosecution Service itself decides on the sanction imposed once it has been established that the suspect is guilty of the offence in question.

The sanction could be a fine, a driving ban (for up to six months), an alternative sanction (e.g. up to 180 hours' community service) or a compensation order.

The Public Prosecution Service may not impose a prison sentence; only a court may do that. Suspects who accept the sanction thereby admit their guilt. And if they decide to reject the sanction, they can have their case brought before the court. →



### Payment in lieu of prosecution

The public prosecutor may also decide to allow the offender to make a payment in lieu of prosecution (*transactie*). If the person agrees and pays, the prosecution will not proceed any further. Failure to pay means the person will have to appear in court after all.

### Decision not to prosecute

Sometimes, the public prosecutor decides not to prosecute a case (*sepot*). This may occur if there is, for instance, insufficient evidence to achieve a conviction or if the suspect has not been identified. A prosecution may not go ahead if the evidence was obtained unlawfully, or if the suspect cannot be held accountable because they have psychiatric problems or because they acted in self-defence. The public prosecutor may reason, on public interest grounds, not to initiate or not to continue prosecution proceedings. He is allowed to take that decision because of the fact that the Dutch system is based on the *opportunity principle*.

A victim may object to a decision not to prosecute by lodging a complaint with the Court of Appeal. If the Court says the complaint is well founded, the Public Prosecution Service has to start a prosecution.

### Conditional decision not to prosecute

The public prosecutor may also attach conditions to the decision not to prosecute, and the perpetrator must abide by these conditions. A person may, for example, agree not to enter the street where his victim lives. If they do not stick to the agreement a sanction will be imposed after all. If the public prosecutor decides that none of these options are appropriate, the suspect has to appear before a criminal court. He is sent a summons: a letter stating when the case is to be heard and giving a description of the offence or offences with which he is charged. Relatively minor offences are heard in a court presided over by a single judge. More serious or complicated cases are heard by three judges. •



# THE TRIAL

The case against a defendant is presented in court by the public prosecutor on behalf of society as a whole. After the public prosecutor has explained the charges that have been filed, the court questions the defendant. The prosecutor and the defence counsel are also given an opportunity to question the defendant. The prosecutor gives his opinion of the case and recommends that the court impose an appropriate sanction. The defence counsel then speaks in the defendant's defence, and the defendant has the last word.

**W**hen recommending a sentence the public prosecutor must consider the interests of all parties: those of the defendant, who has the right to an appropriate punishment and consideration of his personal circumstances; those of the victims and next of kin or the next of kin if the victim has died, who want justice and may want compensation for any damages suffered; and those of society as a whole: public safety, public trust and justice.

In many cases psychiatric and emotional problems or intellectual impairment play a role. In such cases the public prosecutor seeks advice from for instance a psychiatrist,

the probation service, the child protection board or a care institution.

The public prosecutor must keep all these various interests and factors in mind when recommending a sentence they consider appropriate and just. However, if the prosecutor is not convinced by the evidence, he will propose the acquittal of the defendant.

The public prosecutor always stands when addressing the court. The judge, who sits directly opposite the defendant, remains seated. For this reason, in the Netherlands the Public Prosecution Service is also known as the *staande magistratuur*, while the judges are known as the *zittende magistratuur*. •



# SANCTIONS

Under Dutch criminal law, an offender can be punished by the principal sentences: imprisonment, a fine or an alternative sanction.

Alternative sanctions can take the form of community service (werkstraf), which means working without pay for a municipality, a hospital, the state forest service or some other non-commercial institution. Minors may be given a training order (leerstraf), requiring them, for example, to follow a social skills training programme. In addition to the principal sentence, a court may also impose an additional sanction, such as a driving ban. A sentence may also be suspended. That means that it is put on hold for a certain period, but it will be enforced if the convicted person commits another offence. •

# ORDERS

Besides the penalties described above, the public prosecutor may ask the court to issue an order aimed at restitution (for example, an order requiring payment of compensation to the victim) or at confiscating the proceeds of crime.

An order may also entail that an offender with a psychiatric disorder is to be placed in a secure hospital.

The public prosecutor can ask the court to impose a hospital order if the offender has psychiatric problems and is not responsible for his (criminal) acts. If he is partially accountable for his acts because of a mental illness the Dutch system has a special order by which someone can be placed in a secured specialised clinic to receive treatment (TBS). •






# MINORS

PEOPLE BETWEEN THE AGES  
OF 12 AND 18 ARE SUBJECT  
TO JUVENILE CRIMINAL LAW



A person wearing a dark hoodie and jeans is walking away from the camera in a dimly lit tunnel. The tunnel has concrete walls and a wet floor that reflects the overhead lights. The person's hands are in their pockets.

People between the ages of 12 and 18 are subject to juvenile criminal law. Less serious offences such as shoplifting or criminal damage are generally dealt with by the police (Halt-afdoening).

**Y**oung offenders may be required to follow a course (and sometimes to work for a certain number of hours without pay), apologise to the victim and pay for whatever damage they have caused. Their parents or guardians are closely involved in this process.

In certain cases young adults between the ages of 18 and 23 are also subject to juvenile criminal law, for example if the offender is intellectually impaired.

More serious offences are referred to the public prosecutor, who can impose a fine or an alternative sanction. If the prosecutor considers the offence serious, he or she may decide to put the case before a juvenile court (kinderrechter). In the most serious cases, the judge may sentence the minor to a term in a special custodial institution for young offenders.

In special cases, defendants aged 16 and over may be tried under adult criminal law. •



WHICH CASES  
SHOULD  
BE GIVEN  
PRIORITY?



# INFORMED DECISIONS

Millions of offences are committed in the Netherlands. Which cases should be given priority?

**T**o some extent these decisions are taken at national level.

The Board of Prosecutors General, the highest authority in the Public Prosecution Service, sets the parameters for investigation and prosecution policy.

A public prosecutor understands the local context and what is expected of the Public Prosecution Service in its efforts to combat crime

Individual public prosecutors also have to make choices. They have to comply with national policy, but they must also take local circumstances into account.

They understand the local context and what is expected of the Public Prosecution Service in its efforts to combat crime. Should the police

spend more time on patrols during evening shopping hours or on tracking down farmers who contravene the manure regulations? Should they give priority to drug abuse in disadvantaged neighbourhoods, burglaries or traffic offences on high risk roads? The public prosecutor's decisions need to make sense to local residents in the district.

In order to stay up to date on the local context the Public Prosecution Service takes part in regular tripartite consultations with local mayors and police representatives to discuss ways of tackling crime to promoting public safety and the use of police resources. The Public Prosecution Service is the authority for the police regarding criminal law enforcement and the mayors when maintaining public order is at stake. •

# WORKING WITH OTHERS

The Public Prosecution Service works with various other groups: local authorities, the probation service, prison authorities, the child protection board, victim support services and road safety groups, and with lawyers and the business sector.

**W**hen it comes to common crimes such as theft, vandalism and threatening behaviour, cooperation among these partners can be intensive. In order to make appropriate decisions as quickly as possible, all relevant parties are available for consultation 14 hours a day, 7 days a week. In making their decisions, they have to bear in mind the interests of everyone concerned: the suspect, the victim and society as a whole.

The Public Prosecution Service also works with other parties (such as the police, the probation service and victim support services) in 'community safety partnerships' led by the municipality. Here the partners discuss complex matters, such as how to deal with habitual offenders, young offenders, radicalised young people, psychologically disturbed individuals and perpetrators of domestic violence. They also discuss opportunities to do more than simply imposing penalties. After all, offenders are often dealing with multi-dimensional problems. Besides imposing a sanction, a public prosecutor can also set conditions which must be met, such as the completion of a treatment programme. This combination of punishment and rehabilitation is aimed at reducing criminal conduct as much as possible in the future. •







## STATISTICS

The Public Prosecution Service deals with more than 250,000 cases every year. Over 30% of these involve property offences, such as theft or burglary, almost 20% involve violent offences and 15% involve traffic offences. In the past ten years the number of cases involving suspects under the age of 18 has declined from 38,000 to around 16,000.

## COOPERATION WITH FOREIGN AUTHORITIES IN CRIMINAL MATTERS

The Netherlands has established a network of coordination centres for mutual assistance in criminal matters to ensure quick handling of foreign requests: the Dutch International Legal Assistance Centres (or IRC's), which are a partnership between the police and the Public Prosecution Service. IRC's are connected with the ten District Court Public Prosecution Offices. The national IRC (LIRC) is connected with the National Office for International organised crime and the National Office for Serious Fraud, Environmental Crime and Asset Confiscation.

# VICTIMS' RIGHTS

The Public Prosecution Service contributes to public safety and justice in society by dealing with offenders and ensuring that justice is done to victims. This is known as reparation. Reparation includes restoring the rights of victims of violence, sexual assault, traffic accidents, burglary and theft, and the rights of a victim's next of kin.

**V**ictims' rights are laid down by law. Victims are always entitled to recognition, proper treatment and adequate information. In many cases victims are also entitled to compensation, protection and access to documents in the case file.

In addition, victims may speak during the trial or submit a written statement. The Public Prosecution Service provides victims with as much

information as possible and always bears their interests in mind. Victims can obtain information about criminal proceedings via an online information portal (Slachtoffer Informatie Portaal) or one of eleven national victim support desks set up by the Public Prosecution Service, the police and Victim Support Netherlands. Victims of serious offences are contacted personally by the Public Prosecution Service. •

## OTHER RESPONSIBILITIES

The Public Prosecution Service has other, less well-known, statutory duties:

1. A public prosecutor can apply to the court for an order committing persons to an institution if they are suffering from a psychiatric disorder and pose a danger to themselves or those around them.
  2. In the case of an unnatural death, permission to dispose of the body must be obtained from a public prosecutor.
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## WHO MONITORS THE PUBLIC PROSECUTION SERVICE?

The courts review the conduct of the Public Prosecution Service and the police. The Public Prosecution Service informs the Minister of Justice and Security, who bears political responsibility for the Service's conduct and performance, and may be called upon to render account to both houses of the Dutch parliament.

The board of Prosecutors General is concerned with general policy on investigation and prosecution. The minister has the legal power to intervene in an individual case, by issuing a directive to the Public Prosecution Service. If the minister orders the prosecution service to prosecute a particular case, it has to be in writing so the court will be informed of the directive. If the minister orders the prosecution service to abstain from prosecuting a case, parliament will always be informed. Until now no minister ever issued such a directive.

The Prosecutor General at the Supreme Court supervises the quality of the Public Prosecution Service's work on criminal procedure.

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## NATIONAL POLICE INTERNAL INVESTIGATIONS DEPARTMENT

The Internal Investigations Department is part of the Dutch national police but falls under the authority of the Public Prosecution Service. This independent body investigates alleged cases of criminal conduct within the government, such as when a public servant is suspected of a criminal offence like fraud or bribery.

A case may involve a police officer or a staff member at the Public Prosecution Service, but it could equally be a civil servant at central, local or provincial government level who is under investigation. In addition, the Internal Investigations Department is always called in when someone is killed or wounded following the use of firearms by the police. The Department also launches an investigation in the event of a detainee's death in prison or at a police station.

# ORGANISATION OF THE PUBLIC PROSECUTION SERVICE

The Public Prosecution Service employs around 5,000 people, including some 800 public prosecutors.

## Public Prosecution Offices

The Public Prosecution Service is a national organisation divided over ten regions. The organisation's office (*arrondissementsparket*) in a given region is located at the district court (*rechtbank*) serving that region. Every office of this kind is headed by a Chief Prosecutor.

district court, he may lodge an appeal at the court of appeals.

The Public Prosecution Service has a national office to deal with criminal appeals, with locations at the appeal courts in Amsterdam, The Hague, 's Hertogenbosch and Arnhem-Leeuwarden.

## Public Prosecution Office Courts of Appeal

If a convicted person or public prosecutor disagrees with the judgment handed down by the

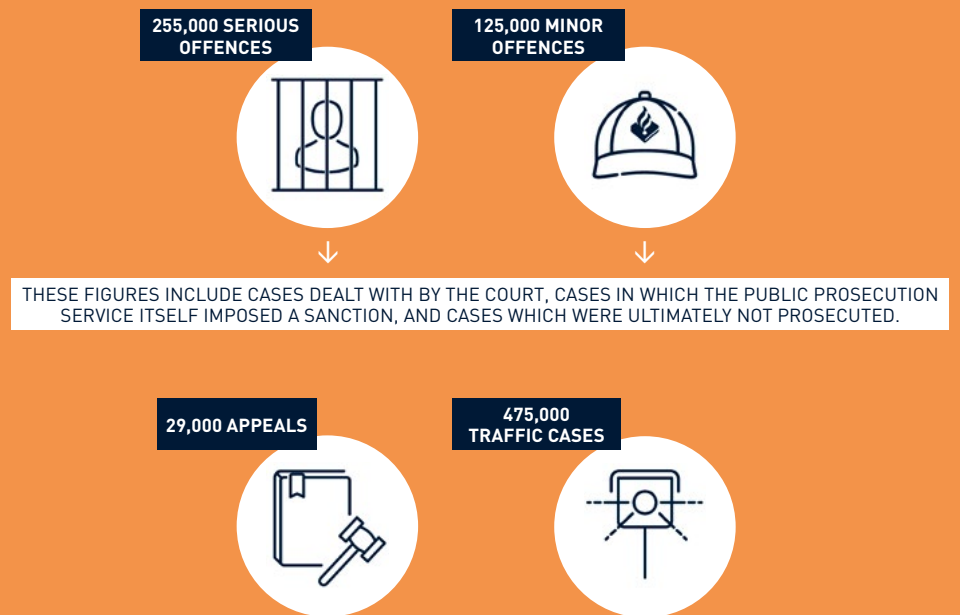
The public prosecution office at the appeal court in question prosecutes the case anew. The appeal court then hands down a judgment ruling (*arrest*). →



## CAPACITY OF THE PUBLIC PROSECUTION SERVICE



## EVERY YEAR THE PUBLIC PROSECUTION SERVICE DEALS WITH:

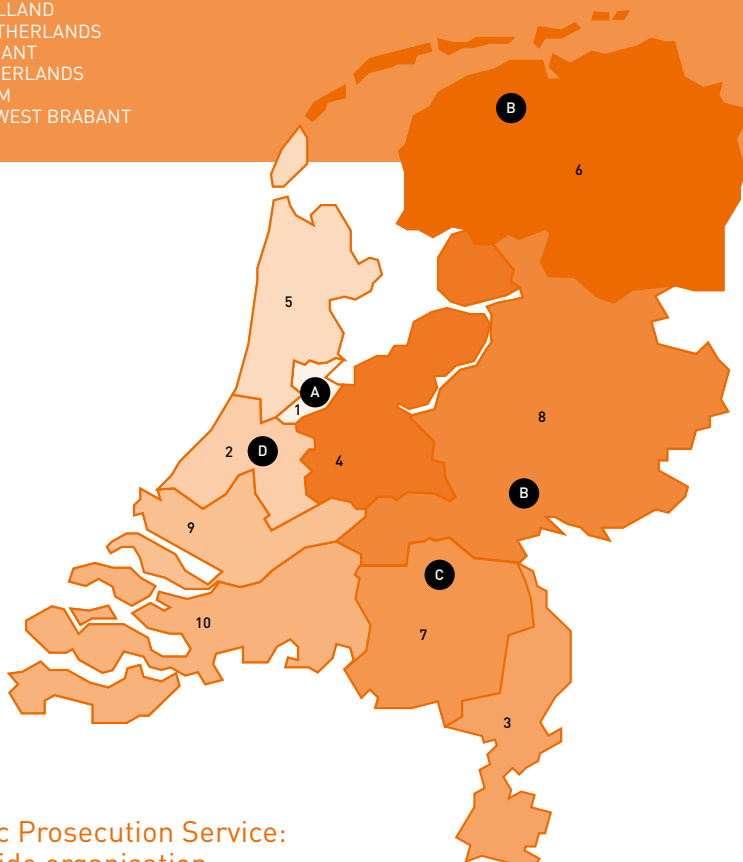


**PUBLIC PROSECUTION OFFICES  
(ARRONDISSEMENTSPARKETTEN)**

- 1 AMSTERDAM
- 2 THE HAGUE
- 3 LIMBURG
- 4 CENTRAL NETHERLANDS
- 5 NORTH HOLLAND
- 6 NORTH NETHERLANDS
- 7 EAST BRABANT
- 8 EAST NETHERLANDS
- 9 ROTTERDAM
- 10 ZEELAND-WEST BRABANT

**PUBLIC PROSECUTION OFFICE COURTS OF APPEAL  
(RESSORTSPARKET)**

- A AMSTERDAM
- B ARNHEM – LEEUWARDEN
- C 'S-HERTOGENBOSCH
- D THE HAGUE



**The Public Prosecution Service:  
a nationwide organisation**

The Public Prosecution Service is one nationwide organisation with ten offices at the district courts and four at the appeal courts. It also has a number of organisational units authorised to perform tasks at national level.

- **National Head Office (Parket-Generaal)**

The Public Prosecution Service is headed by the Board of Prosecutors General. They decide on the Netherlands' investigation and prosecution policy. Together with the organisation's directors and staff officers, the Board of Prosecutors General constitutes the national head office of the Public Prosecution Service.

Other constituent elements are:

1. Bureau for Criminal Law Studies (WBOM), which acts as a knowledge and documentation centre on legal matters for the Board of Procurators General and the other parts of the Public Prosecution Service;
2. Bureau for International Affairs (BI) which acts as a non-operational advisory body to gain more coherence and overview in the field of international matters.

- **National Office (Landelijk Parket)**

The National Public Prosecutors' Office focuses on international forms of organised crime and crime that undermines society, such as human trafficking, terrorism, drug trafficking, money laundering related to organised crime, international war crimes, child pornography, child sex tourism and cybercrime. These serious, and often invisible, forms of crime damage the fabric of society and therefore require a coordinated

approach involving partners both within and outside the Public Prosecution Service.

- **National Office for Serious Fraud, Environmental Crime and Asset Confiscation (Functioneel Parket)**

This office is responsible for tackling fraud and environmental offences, and handles complex criminal cases. It also serves as the Public Prosecution Service's centre of expertise on confiscating proceeds of crime.




- **Central Processing Office (CVOM)**

The Central Processing Office handles virtually all minor offences and traffic cases in the Netherlands. Central Processing deals with anyone who is guilty of drink-driving, speeding or driving without a licence. It makes nationwide agreements with the police concerning road traffic enforcement and assesses whether new legislation concerning the roads, waterways, airways and railways is enforceable.

- **National Service Centre (DVOM)**

The DVOM is a service provider which performs operational management tasks for the Public Prosecution Service in the fields of human resources, finance, information management and facilities management. •

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**Photography** Loes van der Meer

**Design** VormVijf

**Print** Xerox/OBT

February 2018

