1 Introducing Dutch law[1]

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1 Introduction

Law is an important phenomenon in modern society: it influences people's lives in more ways than they probably realize. It proclaims certain conduct illegal, but it also makes things possible by creating legal means to achieve them. Many of the central elements in law can be found in the vast majority of legal systems: there is usually a court system, citizens have certain rights, and the government enforces aspects of law. Every legal system, however, has its own mechanisms and institutions, its particular prohibitions and principles. One important way in which legal systems differ is in the language they use: the official language (or languages) of a country will also be the language of the law. This means that the statutory rules, court proceedings and most of the literature about the legal system are also in the country's official language.

If one is interested in another legal system, this poses a problem. The legal system of the Netherlands, for instance, is almost impossible to understand for someone without knowledge of the Dutch language. There are few translations of Dutch laws in other languages and court cases are usually only published in Dutch. This book tries to make the law of the Netherlands accessible to foreigners who do not speak Dutch.

In order to gain knowledge of a legal system, it is not enough to be told about the existing rules in the major fields of law. It is vital to combine knowledge of the rules with an understanding of the way the rules came about and of the context in which the rules function. The aim of this book is to give insight into the historical, political and cultural context of Dutch law as well as the main legal rules and institutions. This chapter is devoted to some basic features of Dutch law and its context.

2 Dutch law as a European legal system

The Netherlands are a country on the European continent. This simple observation is the key to a number of basic characteristics of the Dutch legal system, two

1 Many thanks to Roland Pierik for his helpful comments for the first edition.

of which will be discussed here: the character of Dutch law in comparison to other legal systems and the influence of European law on the Dutch system.

2.1 A comparative perspective

In the theory of comparative law, it is customary to classify the legal systems of the world as part of legal families. The members of a legal family share particular features, such as their history, the style of legal thought, specific legal institutions, the choice of sources of law and methods of interpretation, and ideology.[2] In the Western world, the greatest difference is between common law and civil law systems.
Common law systems, such as English and American law, are characterized by case-by-case reasoning, typical institutions such as the trust, and an emphasis on judge-made law. Civil law systems are characterized by abstract reasoning and an emphasis on statutory law. Although the systems of Continental Europe can all be regarded as civil law systems, there are important differences which justify a subdivision into smaller legal families.[3] Therefore, a subdivision can be made between the Romanistic, the Germanic and the Nordic legal families. The central system of the Romanistic family is the French legal system; among the other legal systems belonging to this family are the Italian and the Spanish systems. The central system of the Germanic family is the German system, and of the Nordic family, the Swedish and Danish systems. Traditionally, the Dutch system has been classified as a Romanistic system. The most important reason for this classification is that the Netherlands were briefly occupied by France when Napoleon was in power, a period in which the French legal codes were introduced in the Netherlands. The later Dutch codes were modelled on the French originals, and this has given the Dutch system a number of typically Romanistic institutions. For instance, the existence of cassation as the highest instance of court proceedings has a French origin.[4]
More recently, however, changes in Dutch law have not been exclusively modelled on the French system. One of the most important changes, the recodification of civil law in the new Civil Code, was inspired by German legal thinking: the structure of the code, moving from more general to more specific rules, is comparable to the German *Bundesgesetzbuch*. The new code also introduced particularly Dutch elements: for instance, it codified the major developments in Dutch case law throughout the 20th century. In general, one can say that law reform in the Netherlands draws on different legal systems and that Dutch law can no longer be classified as clearly Romanistic.

2.2 The Netherlands in the European context

In the past, the Netherlands were always an enthusiastic supporter of European cooperation and the European Union. It was one of the six countries that formed the first European Community, the European Coal and Steel Community in 1951. Since then, the Netherlands have been party to all the treaties establishing closer

2 K. Zweigert & H. Kötz, *Introduction to Comparative Law* (3rd ed.), Oxford: Clarendon 1998, p. 68.

3 This is the division made by Zweigert and Kotz; not all comparatists agree on the criteria and number of legal families, see Zweigert & Kötz 1998, p. 64-65, see note 1.

4 See also Section 3.2.

ties between the countries of Europe. The pro-European attitude of the Netherlands and the ensuing membership of the EU have had profound influence on the law: most fields of law are affected by rules and regulations from Brussels. In some fields, for instance environmental law and consumer law, the majority of the rules are either European or national rules adopted to conform to European law. European Community law takes precedence over national law.[5] Because European rules are made by supranational bodies, the European Council, Commission and Parliament, national sovereignty, the power of the national government and Parliament to legislate and execute legal rules as they see fit, has seriously diminished. With the European Union expanding in the early 2000s, the influence of the Dutch government on European issues diminished even further. This has led to a more mixed attitude toward the European Union. There have been advisory referenda, in which a (small) majority rejected the pro-European position, which is in keeping with the observation that the group of people with a Euro-skeptic attitude has increased. At the same time, many people acknowledge that a small country such as the Netherlands cannot achieve much, economically or politically, on its own, and that the common market has generally been to the advantage of the Dutch economy. Events such as the United Kingdom leaving the European Union and the measures necessary to combat the Covid-19 virus have again shown that opinion in the Netherlands is divided: people are no longer generally convinced that the European Union is a good thing.

In addition to the law stemming from the European Communities, and now the European Union, there is a pervasive influence of the European Convention on Human Rights in Dutch law. The Netherlands ratified the European Convention in 1954. As a consequence, Dutch citizens can take their complaints about the violation of the Convention to the European Court of Human Rights, after they have exhausted national remedies. Although the general opinion in the Netherlands is that Dutch human rights protection is very good, the European Court has on a number of occasions ruled that the Dutch state violated a provision of the European Convention. One of the articles for which the Netherlands were at fault in the past is Article 6: the right to a fair trial. A famous case which was reason for profound changes in procedural administrative law was the *Benthem* case.[6] The question was whether appeal to the Judicial Division of the Council of State, as it then functioned, and appeal to the Crown, should be regarded as a hearing by an impartial and independent tribunal in the sense of Article 6. Because the Division of the Council of State could only give advice, not a decision, and because the Crown was part of the government and not independent, the European Court ruled that these proceedings violated Article 6. As a result, Dutch administrative law has been reformed so that the appeal to the Crown was abolished and the Judicial Division of the Council of State now gives decisions as the final Court of Appeal. The *Benthem* case can be regarded as an example of the sometimes more, sometimes less profound changes in the Dutch legal system that originated from rulings of the European Court of Human Rights.

5 This is not problematic within the Dutch legal system, which contains the more general constitutional rule that treaties precede national law. See also the next section.

6 ECtHR 23 October 1985, 8848/80.

3 Sources of law

Like most legal systems today, Dutch law recognizes a number of different sources of law. Of course, legal rules can be found in various types of enacted law, but case law, customary law, and principles of law are recognized sources as well. All of these sources are subject to certain conditions of validity: when does a rule from that source count as a *legal* rule, i.e. as a source of legal obligations? For some sources, there is the additional problem of knowing exactly what the rule is: how do we know which legal rules the source contains? These are questions that can be asked about each source separately, while there is also the overarching question of the relation between the different sources: which is the more important? In case of conflict, which source prevails? Many of the Dutch solutions will seem familiar to students of other Continental European systems: with respect to the sources of law, the Netherlands do not differ hugely from other civil law countries.

3.1 Enacted law

Enacted law, i.e. law made by a body invested with the power of law-making, can be divided into four main categories: treaties (including international law made by supranational bodies), the constitution, statutes, and other regulations by government bodies.

1. *Treaties*. As was pointed out in the previous section, treaties and other international rules have steadily become a more important source of law over the last century. In general, the procedure by which a treaty becomes part of Dutch law is simple. Whenever the Dutch government is party to a treaty and the treaty is approved by Parliament and ratified, it only needs to be published in order to attain the status of a source of law. This means that the Dutch system is a monistic system: treaties are part of the law automatically. By contrast, a dualistic system makes it necessary to transform international rules separately into national law by an act of law.[7] There are some international rules, however, that do need to be transformed, regardless of the monistic system, notably European directives that explicitly leave it to the Member States themselves to incorporate the content of the directive in the way they see fit.

Although the basic idea of treaties as a source of law is straightforward, there is a complication when an individual citizen wants to appeal to a treaty before a Dutch court of law. For such cases, the Dutch Constitution prescribes that only the provisions of treaties that are directly addressed to citizens can be invoked in court (Article 93). Clear examples of such provisions are the human rights guaranteed by the European Convention: these are often invoked before, and regularly applied by, the Dutch courts. Many treaty provisions are less clear in this respect, so that the courts themselves have to determine whether a particular provision is eligible for direct application. Such directly applicable provisions supersede all national law: a national rule that is contrary to treaty provisions of this kind is inapplicable (Article 94 Constitution).

2. Constitution. The highest national law in the Netherlands is the Constitution, last changed profoundly in 1983 when the catalogue of basic rights was expanded

7 Among the countries with a more dualistic system are Germany and Italy.

and compiled to form the first chapter. The Constitution grants basic rights to citizens and provides the basis for governmental organization: it establishes the independent judiciary, the process of elections, and the different governmental bodies and their rule-making powers, such as the Parliament, provinces and municipalities. As the foundation of Dutch law, the Constitution is subject to a stricter procedure for amendment than regular statutes.[8]

3. Statutes. The bulk of enacted Dutch law is formed by Acts of Parliament or statutes, made by the government and Parliament together. The Dutch constitutional system aims to respect legality: the government may only limit the freedom of the citizens on the basis of general, public laws. Although this principle is most relevant to criminal law *(nulla poena sine lege)*, it is more generally applicable: all government action must have a basis in statutory law. As a consequence, there are Acts of Parliament in all areas of law, which provide the general rules for that field. This does not mean, however, that all general rules can be found in Acts of Parliament.

4. Governmental regulations. Often, the powers to make additional rules are delegated by the statute to other government bodies, giving rise to regulations by these bodies. Sometimes, the statute is no more than a framework for a series of more detailed regulations by the government or by particular ministers. In some areas, these government bodies have independent rule-making powers, awarded by the Constitution. For instance, the municipal council such as the city council of Amsterdam has the power to make regulations or by-laws (Article 127 Constitution). Such independent rule-making powers have been awarded to the government, the Provincial States, municipal councils, district water boards,[9] and specialized public bodies for professions and trades.[10]

Within the category of enacted law, there is a clear hierarchy of sources: whenever there is a conflict between rules, the higher rule precedes the lower. Thus, as is shown in Figure 1, treaties precede the Constitution, which precedes Acts of Parliament, which precede other government regulations. There is one peculiar aspect to this hierarchical system: although the Constitution precedes Acts of Parliament, the courts are not allowed to invalidate a statute because it conflicts with the Constitution (Article 120 Constitution). It is the sole responsibility of the democratic Parliament to ensure that its Acts are in accordance with the Constitution. However, this ban on the judicial review of statutes does not mean that Dutch statutes are never declared invalid by a judge: when a statutory rule conflicts with a rule of international law, it can be declared invalid. This has happened on numerous occasions, especially on the basis of the European Convention on Human Rights,

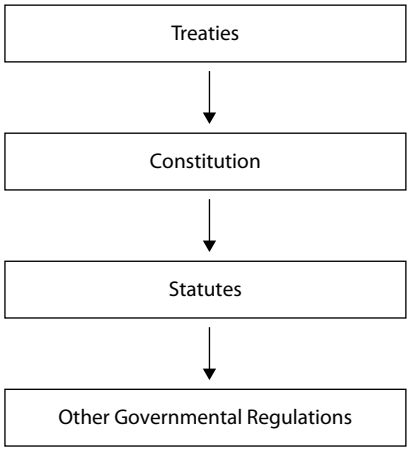
8 See Section 2.2 of the chapter on legislation for a description of constitutional amendment.

9 Water boards are historically important in the Netherlands because such a large part of the country is below sea level: water boards are responsible for the upkeep of dykes, the prevention of floods and all other matters concerning water, such as clean drinking water.

10 Such bodies can make rules for an area of trade, such as rules for the clothing industry, or for a certain profession, such as disciplinary rules for lawyers.

which contains many provisions that are in substance the same as the Dutch constitutional rights.[11]

Figure 1 Hierarchy of sources: enacted law



3.2 Case law

An important additional source of law is formed by judicial decisions. What is peculiar about this source is that the rules contained in judicial cases are always made in relation to a concrete case. This has the consequence that the general rule to be applied in later cases is not always clearly formulated as such. Furthermore, case law always builds upon other sources: it concerns the interpretation of legal rules to be applied in the case at hand. In the Dutch system, case law is primarily seen as supplementing enacted law. Court decisions are a source of case law if they provide a novel interpretation that can be applied in other cases. The most important court in this respect is the Dutch Supreme Court. It has explicitly been given the task to ensure the unity of Dutch law.

Dutch courts are not formally obligated to follow earlier (Supreme Court) decisions. This means that there is no principle of precedent or *stare decisis* as known in common law countries *(stare decisis* is the idea that courts must abide by the rulings of higher courts and that courts should in principle respect their own previous decisions). In fact, however, Dutch courts do follow Supreme Court decisions: when a court's decision goes against a Supreme Court ruling, it is possible to appeal to a higher court and, in the last instance, the Supreme Court, which will not usually overrule its own previous decision. Thus, in practice, lower courts use the Supreme Court's decisions as an authoritative source.

In cases of conflict between case law and enacted law, it is usually the most recent source that is followed. The Supreme Court has in some cases refrained from applying statutory rules because they were no longer in accordance with widespread

11 See also Chapter 5, Section 2.2.

social practice or opinion. If the legislature, on the other hand, makes new legislation which overturns Supreme Court rulings, such legislation takes precedence.
Two historical examples may serve as an indication of the importance of case law for the development of Dutch law. The first example is the case, now over 100 years old, of Lindenbaum v. Cohen. This case, which is discussed more extensively in Chapter 8, Section 4.3, gave a new interpretation to the statutory provision on unlawful conduct (tort law), extending the scope of unlawful conduct to breaches of unwritten law governing social conduct. Previously, the scope had been restricted to breaches of statutory law or infringements of legal rights. The case was the starting point for a large body of case law further specifying the meaning of unlawful conduct based on unwritten law. Eventually, the Lindenbaum-Cohen ruling was codified in the new Civil Code of 1992, not overruled by a statute but in a sense absorbed within the system of the Code.
Another example is the Dutch law on euthanasia, in which case law also played, and still plays, a large role. This will be discussed in Section 4.2 below.

3.3 Unwritten law

There are also sources of law that are not laid down in written documents. Present Dutch law recognizes two of these: customary law and general principles of law.
1. Customary law. Custom is the traditional source of unwritten law. If a certain rule has been practiced uniformly and constantly, and if the rule is regarded as required by law, such an unwritten rule is regarded as valid customary law. The two conditions are referred to as *usus* and *opinio necessitatis*,[12] respectively. Dutch law used to contain the provision that a custom was only a source of law if it was recognized as such in a statute. This did not stop the Dutch courts from recognizing customary rules that were independent of statutory provisions. In 1992, the rule requiring a statutory foundation for custom was abolished and judicial practice was formally recognized. However, one should not conclude that custom is therefore an important source of law in its own right. It is often invoked as a last resort, i.e. when no other source of law provides a basis for a satisfactory solution. We do find scattered customary rules throughout Dutch law. For example, the rule that the government must resign if it no longer has the trust and support of the Second Chamber of Parliament is an unwritten, customary rule. The most important role of customary law is not within Dutch law but in international law.
2. General principles of law. A second source of unwritten law is formed by the general principles of law: abstract norms that refer to basic legal values and underlie the whole of the legal system or large parts of it. Like customary law, legal principles are found throughout the Dutch legal system. However, because they are regarded as foundational, they are often invoked in court: not only to supplement the written legal rules, but also to support particular interpretations of the rules. For example, in private law, the freedom of contract is regarded as one of the implicit principles of the law of obligations, which can be used to justify respecting

12 Sometimes, this condition is called the *opinio juris* (or *opinio juris sive necessitatis)*: it has the same meaning, namely the conviction that the custom is required by law.

particular contractual obligations and to interpret restrictively legal rules that limit such freedom.[13]

Perhaps the most influential set of legal principles have been the general principles of good governance, which were developed as broad norms for administrative action. Whenever a governmental agency takes a decision concerning particular citizens, it has to ensure that the general principles of good governance are respected. Among other things, the agency has to honor its earlier promises, to take care in fact-finding before taking the decisions, etc. The courts have made extensive use of these principles to judge the administration's behavior.[14]

3.4 The interaction between legal sources

In practice, the different sources of law interact with each other. Many hard cases that come to court concern questions of how one source of law should be weighed in relation to another. In addition to the primary sources of law mentioned above, there is also a role for legal doctrine, the academic study of law. For instance, the development of general principles of law has been stimulated by doctrinal scholarship, yet mainly took concrete shape in case law.

The problem of a plurality of legal sources is perhaps most acute in the relationship between international law and European law, on the one hand, and national legislation. That relationship is less clear in practice than Figure 1 suggests. Often, when national laws or policies are made, politicians presume that these are in accordance with applicable international law and European law. However, when such an act of legislation or national policy is challenged in court, it may happen that the court finds that the legislature's or government's interpretation of the international treaty or European regulation is incorrect. In recent years, there have been cases which caused a stir, because the courts gave a much stricter interpretation of the requirements of international and European law than the legislature or government.[15] The most famous of these is the climate change case of *Urgenda* versus The State of the Netherlands. The case concerned the Dutch policy on emission of greenhouse gases. *Urgenda* asked for a court order that the State should aim at a reduction of 40% of emissions by 2020 in order to reach the internationally agreed-upon targets for 2030. Unexpectedly in 2015, the District Court in The Hague awarded *Urgenda's* claim. On appeal, and finally in cassation at the Supreme Court the judgment was upheld.[16] The case was seen as revolutionary

13 An important example is the Supreme Court decision HR 27 September 2002, *NJ* 2003, 139. For further discussion of the freedom of contract and the kinds of restrictions that Dutch law imposes, see Chapter 8.

14 See further Chapter 4, Section 5.2.

15 One of these cases is the judgment by the main administrative law court, the Administrative Jurisdiction Division of the Council of State, on the issue of nitrogen depositions (ABRS 29-5-2019, ECLI:NL:RVS:2019:1603) which declared the national policy invalid on the basis of the European Habitat directive. It had large impact on agriculture and the building sector.

16 HR 20 December 2019, ECLI:NL:HR:2019:2007 (English translation). The case is also unique because all three judgments have been translated into English. See also Chapter 4, Section 7.7 and Chapter 6, Section 3.2.

because the court ordered the government to change its climate policy on the basis of various international treaties and other documents. Many had argued that ordering a change of policy upset the balance of powers between the executive and the judiciary and that this was a political decision by a court. The courts argued that their judgments were legal in nature, because they protected basic legal rights, in particular the right to life and to private life (Articles 2 and 8 ECHR). The fact that these decisions had large political consequences was not the main issue, in their opinion.

4 Dutch law in context

If one wants to gain a more profound insight into the character of Dutch law, it is essential to examine more than the structure and rules of positive law. To know what a legal system is really like, one has to consider the context in which the legal rules function. How are the rules applied? What values is law supposed to serve? What is typical of the society which the law is supposed to regulate? Some knowledge of the cultural background of Dutch law is necessary. One way to gain such knowledge is by getting some first-hand experience of Dutch society, but even then it may be helpful to have some background information. I will discuss three typical features of the context of Dutch law.

4.1 Religious and cultural diversity

For many centuries, the Netherlands were a place of refuge for people with religious beliefs that were outlawed in other countries, such as the French Huguenots and Portuguese Jews. Because of this hospitality to other religions and because of the free press, the country had a reputation for tolerance. Since the Reformation, there had been religious diversity among the Dutch population as well: many remained Roman Catholics, many others turned to Calvinist Protestantism. Although Catholicism was officially forbidden in the 17th and 18th centuries, toleration of Catholic beliefs was a matter of practical policy: as long as the churches were not too obvious, nothing was done to ban them actively.[17]

During the 19th century, when the Protestant Church once again divided, the more orthodox Reformed Churches separated from the official Dutch Reformed Church. Their leader, Abraham Kuyper, also started a political party and a number of other projects, such as a university: the Free University in Amsterdam, founded in 1878. At the same time, a political battle started over the public funding of schools: on the one hand, the liberals only wanted to fund public schools, without any religious affiliation, on the other hand, Catholics and Protestants wanted funding for schools with a religious character as well. It was a long and heated battle, but the issue was finally resolved with a compromise in 1917 that started the devel-

17 Hence, the existence of many clandestine churches ('schuilkerken'), such as *Ons' Lieve Heer op Solder* in Amsterdam, now a museum.

opment in the Netherlands of a characteristic political system: the accommodation of four blocks or 'pillars'.[18]

The system of pillarization depended on the separate functioning of four blocks in society: Catholics, orthodox Protestants, socialists and a general liberal group (which was more heterogeneous, consisting of non-church-going groups and liberal Protestants). Each had its own schools, political parties, newspapers, radio and television associations, etc. Contact between people in the different pillars was scarce; it was only at the level of the leadership of the organizations, especially the political parties, that there was much interaction. This led to a 'politics of accommodation'; the leaders of national politics worked out compromise solutions for political problems, which were deferentially accepted by the broad population. The system of pillarization started to break down at the end of the 1960s, when church membership became less important and Dutch society became more individualistic. The rise of television made it easier to learn about the ideas from other pillars. At present, people are much less loyal to one political party and membership of the different pillarized organizations has declined. In some respects, however, the remnants of the system are still visible. Most of public television is still run by the associations that were once part of the four pillars. Many of the socio-economic policies of the government are still decided in consultation with the leaders of employers' organizations and trade unions that used to belong to the pillars.[19]

In the same period, the end of the 1960s, Dutch society became more culturally diverse: so-called guest workers from the south of Europe, Morocco and Turkey arrived, and after the independence of the Dutch colony of Surinam in 1975, many chose to move to the Netherlands. Immigration is still an important phenomenon: in 2020, about 24% of the population have at least one non-Dutch parent.[20] In many inner-city schools, more than half the students belong to such immigrant groups. We may say that the religious diversity of old has changed into cultural diversity, although there is a religious component too: Islam is a growing religion in the Netherlands now. The old animosity between Catholic and Protestant groups has, however, faded, because the majority of the Dutch population is no longer actively religious. Only 15% of the population still go to church regularly, while about 49% still consider themselves as belonging to a religion.[21]

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18 See A. Lijphart, *The Politics of Accommodation: Pluralism and Democracy in the Netherlands*, Berkeley: University of California Press 1968. He uses the term 'block' to translate the Dutch term 'zuil', which literally means 'pillar'.

19 See also Chapter 10, Section 4.

20 10% are of Western descent, 14% of non-Western descent. Around 46% are second-generation migrants, who were born in the Netherlands, according to statistics of the CBS (Centraal Bureau voor de Statistiek), webpage on migration ('Hoeveel mensen met een migratieachtergrond wonen in Nederland? www.cbs.nl/nl-nl/dossier/dossier-asiel-migratie-en-integratie/hoeveel-mensen-met-een-migratieachtergrond-wonen-in-nederland-).

21 23% Roman Catholic, 15% Protestant, of which 6% Protestant Church Netherlands (PKN) and 9% various reformed churches (varieties of Protestantism), 5% Islam, 5% other religions (CBS statistics on religion 'Wie is religieus en wie niet?', 2018, www.cbs.nl/nl-nl/achtergrond/2018/43/wie-is-religieus-en-wie-niet-).

4.2 A pragmatic attitude

One of the reasons why the politics of accommodation developed as it did was that none of the political parties of the four blocks ever commanded a majority of the electorate. As a result, the national government always consisted of parties from different blocks forming a coalition: sometimes a socialist-Catholic coalition or a Catholic-Protestant-liberal coalition. This reinforced the need to compromise and settle for pragmatic solutions. Sometimes, this meant accepting that a more principled solution was not feasible. One of the reasons why, for example, the law on euthanasia was gradually developed by the courts was that there was no political majority in favor of changing the statutory rules nor was there a majority in favor of strictly enforcing the criminal law forbidding euthanasia. The result was that a viable system was developed in case law, which was finally laid down in a statute when a political majority could be found.[22]

The attitude of (temporarily) accepting a solution that may not be very elegant or principled is one that is shared by politicians and jurists alike. Because politics and law are connected spheres of society, this is not surprising: in the case of euthanasia, something had to be done by jurists to overcome the disagreement that made a political solution impossible. There had already been a discussion among doctors about conditions under which they thought euthanasia was medically and ethically permissible, which also gave rise to the opinion that it should not be illegal. The solution that the courts chose was to consider the practice of euthanasia as a situation of necessity under certain conditions. After the Public Prosecution Service had adopted the policy of non-prosecution if these conditions were met, the call for legislation was renewed. Finally, in 2002, the system as developed in case law was made part of the Criminal Code. Among the reasons that made possible a change in statutory law was the coalition of a social-democratic and two liberal parties with a majority in Parliament: this made it possible to resolve an issue that had always been very sensitive for Christian political parties.

What is interesting to note is that the adoption of a statutory framework for euthanasia did not stop the debate in society, nor did it halt the development of case law. Since 2002, the debate shifted from the standard cases of euthanasia to borderline cases. One such case was the Brongersma case, in which a very old man requested euthanasia, not because he suffered from a medical condition, but because he felt his life had completed its course.[23] This in turn gave rise to new initiatives in Parliament to accommodate such cases in the statutory law as well. So far, these have not been successful. Another difficult matter on which the Supreme Court has ruled, and which is a matter of public debate as well, is the situation of people suffering from dementia. Should their statements of their wish to undergo euthanasia, written while they still had all their cognitive capacities, be taken as expressing their request at the later stage in their illness? In 2020, the Supreme Court ruled affirmatively.[24] Again, this has not shut down the debate.

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22 For a thorough discussion of the development of the euthanasia law, see John Griffiths et al., *Euthanasia & Law in the Netherlands*, Amsterdam: Amsterdam University Press 1998.

23 HR 24 December 2002, ECLI: NL:HR:2002:AE8772 (*Brongersma*).

24 HR 21 April 2020, ECLI:NL:HR:2020:712.