

'Criminele gebouwen'

De faciliterende rol van woningen en bedrijfsruimten bij
ondermijnende criminaliteit in Nederland
en vier EU-landen



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met medewerking van Teddy van Suchtelen

Titel

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Summary

"Criminal buildings": The facilitating role of private homes and business premises in undermining crime in the Netherlands and four EU countries.

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This research project is the result of a parliamentary vote in which the government was asked to consider how private landlords and housing corporations may be warned of the criminal intentions of potential users. The aim is to offer municipalities, housing corporations and bona fide private landlords instruments for the prevention and tackling of undermining activities. To this end, there is an increasing need for more knowledge about and insight into the nature and scope of the crime-facilitating function of residential and commercial premises in the Netherlands, and insight into which instruments are used in other countries. This objective has been translated into eight research questions.

Dutch situation

1. How do residential and/or commercial premises play a role in facilitating undermining crime in the Netherlands?
2. What is (estimated) the extent of the facilitating role of residential and commercial premises in undermining crime in the Netherlands?
3. To what extent are there differences in nature and size between regions in the Netherlands?
4. Which indicators cited in the literature point to the facilitating role of residential and commercial premises in undermining crime in the Netherlands? And do the same indicators apply within urban and rural regions?

International comparison

5. How do residential and/or commercial premises play a role in facilitating undermining crime in countries comparable to those of the Netherlands, and which indicators are known for this in those countries?
6. Which instruments, both preventive and repressive, are used in the countries involved in this research to counter this and what is the legal framework within which these instruments are used?
7. What are the positive and negative experiences in the countries involved in this study in combating the facilitating role of residential and commercial premises in undermining crime, and what advantages and disadvantages are experienced in using the various instruments?
8. Which instruments, from the countries involved in this study, could be further studied for tackling (both preventive and repressive) this phenomenon in the Netherlands?

Research methods (The Netherlands)

For the Dutch part of the study, desk research, interviews, register data and prevalence estimates were used. Policy documents, scientific and gray literature have been studied. In addition, a media search was performed, and many websites were visited in search of relevant data. 32 professionals were

interviewed. A few interviews were conducted face-to-face, but most interviews were conducted via a video calling service or by telephone, partly since the Netherlands is (partly) locked up due to the Covid-19 pandemic. A datafile of the police has been compiled at address level to map the registered number. To select the correct incidents, incident codes were used supplemented with anonymous information from the Crime Stoppers administration. Finally, various estimation methods (multiplier method, triangulation) have been used for the prevalence estimates.

Research methods (Foreign countries)

For the foreign part of the research, collaboration was sought with researchers from Belgium, Italy, the Czech Republic, and Sweden. The researchers conducted a quick review. They have fulfilled the assignment in their own way. In most cases literature research has been carried out, in which a combination of legal texts, case law, news articles, research reports and government documents form the ingredients. In addition, some of the foreign researchers have held discussions with experts. In Sweden, information was collected in several police districts through a survey.

Facilitating role of residential and/or commercial premises

Six functions are distinguished in which residential and/or commercial premises play a facilitating role in undermining crime. Three of these are related to the logistics of illegal goods, namely: production, trade, and storage. In some cases, one and the same space will have several functions, such as trade and storage. Illegal goods in the Netherlands mainly involve illicit drugs. Cannabis and synthetic drugs are widely produced in the Netherlands. Trade and storage involve serving the domestic drug market as well as export and transit abroad. However, there are also many other illegal goods that also require (business) premises for trade and storage, such as illegal weapons, illegal fireworks, stolen goods (fencing) or illegal cigarettes. In addition, we can distinguish two functions that are related to the provision of services. On the one hand, these may be apparently legal services for laundering criminal assets. This concern, for example, hairdressing or beauty salons, and on the other hand the provision of illegal services. This could include illegal prostitution, other forms of human trafficking and illegal gambling. Finally, we distinguish a sixth function of residential and possibly commercial premises, namely as a hiding place to stay out of sight of the (investigative) authorities. This may be because the person in question is being sought, is staying illegally in the Netherlands or wants to stay out of sight for other (criminal) reasons. However, it has not been possible to quantify the extent of this latter form (of hiding) in any way.

The common denominator for the first five functions - about goods and services - is that premises are needed to develop the criminal activities or to serve as a link in the criminal process. The requirements for these premises vary from case to case. Of course, it is not the case that cannabis is only grown in large industrial halls. Smaller business premises are also used, and especially private homes are used for this purpose.

Choice of location

In the study, it was reasoned which considerations could play a role in the choice of location. This is primarily about the level of protection the site can provide to stay out of sight of the authorities. The

more remote, the better it seems, but some undermining activities do require a degree of accessibility, such as illegal gambling, illegal prostitution, and drug trafficking. In line with this, an urban environment will sometimes be chosen, because some criminal activities are simply less noticeable in such a setting, while in other cases the countryside is more the appropriate place. In addition, the extent of the illegal activity can influence the choice between urban and rural areas, but also the choice of residential/commercial property. Managing a large cannabis plantation in a shed is more of a conspicuous activity in an urban environment than a small one in an attic. However, it will also be partly coincidental and/or opportunistic reasons that determine the choice of location. Do you have an existing location, or do you need to rent something? What is possible; what is available on the market? As stated, the ambition of the criminal entrepreneur is also an important factor; how large or small-scale are the criminal activities? In this respect, the same rules apply as with bona fide activities.

Registered and estimated numbers

The registered number of private homes and business premises that were used for criminal purposes in 2019 is based on police data, selected by incident codes. Environmental crime and money laundering transactions with real estate have deliberately been left out of consideration. Relevant reports that are not clearly recognizable in the first instance by the assigned incident code have been retrieved by using the anonymous records of Crime Stoppers. After mapping out the relevant registered crime forms as well as possible, an estimate was then made of the true extent to which private homes and business premises are used to facilitate subversive crime. To this end, various paths have been taken. For example, we have used alternative sources for some types of crime. In an estimate of the actual number of cannabis plantations in homes and business premises, use was made of figures on energy theft, among other things. However, such alternative sources have not been available for all forms of crime. Estimates of the sales market (s) were also used to arrive at estimates, for drugs, for example based on the number of users. Another method to estimate the real number is to estimate the arrest rate. By using different sources and viewpoints, an attempt has been made to make the estimate as accurate as possible.

The registered number is surrounded by uncertainty. Naturally, this also applies to the estimated number. The numbers listed in Table S.1 should therefore be considered indicative.

Table S.1 Registered and estimated numbers of private houses and (business) premises used to facilitate undermining criminal activities in the Netherlands in 2019

	Registered numbers		Estimated numbers	
	Number	Percent	Number	Percent
Illegal goods				
Production	9,916	58 %	28,000	56 %
Trade/storage	5,224	31 %	13,000	26 %
Illegal services				
Apparently legal	648	4 %	3,000	6 %
Illegal	1,184	7 %	6,000	12 %
Total	16,972	100 %	50,000	100 %

It is estimated that in 2019 approximately 50,000 private homes and business premises in the Netherlands were used to facilitate the included forms of undermining crime. This may concern both permanent and incidental use of the premises, and both exclusive use (the premises is not used for anything else), as well as shared use. About 80 percent of the premises used are private homes, which corresponds to approximately 40,000 private homes. In 2019, an average of 18 per 10,000 units (private homes, businesses, and other premises) in the Netherlands were registered for subversive activities. If we extrapolate this to the estimated size, we arrive at 50 per 10,000 units. In other words, approximately 0.5 percent of the premises stock is used annually to facilitate undermining activities.

In the Netherlands, the ratio of single-family homes versus multi-family homes is approximately 2:1. We see the same relationship with the residential addresses in our database. The remaining premises are business related. However, the database does not provide sufficient insight into these business premises, because most of them are only classified as business premises. Where a further qualification is given, it usually concerns catering establishments and shops and to a lesser extent agricultural companies, holiday parks and garages.

The premises to produce cannabis are prominently represented. About 60 percent of the private homes involve cannabis cultivation as an undermining activity. In commercial premises, cannabis cultivation accounts for about half of the businesses used. All the researched undermining activities occur in both homes and commercial spaces, but there are differences in emphasis. Business premises are relatively more often used for illegal gambling, the storage of illegal fireworks and the storage and trade of stolen goods.

Regional differences

To what extent and in what way there are regional differences has been studied at three levels: province, municipality, and neighborhood. The scores in the three southern provinces, Noord-Brabant, Zeeland, and Limburg, are above the national average. The same applies to the provinces of Groningen and Drenthe. These five provinces border on either Belgium or Germany. This geographic location may play a role in this, but of course more factors may influence this. The scores in the eastern provinces of Overijssel and Gelderland are below the national average and these provinces also border Germany. Flevoland scores above the national average.

The number of addresses where undermining activities took place in 2019 is a factor two higher for the Top 20 municipalities than the national average. Municipalities from the provinces of Noord-Brabant (with eight municipalities) and Limburg (with five municipalities) feature in the Top 20. It is striking that there are few large municipalities in the Top 20. Only Tilburg and Arnhem are in the Top 20 at places 6 and 17. There are also significant differences between the twenty largest municipalities in the Netherlands. For example, Rotterdam has twice as many addresses per 10,000 units registered than Amsterdam. The low-scoring municipalities include Maastricht, Amersfoort, Haarlem, and Apeldoorn. We note high scores in the municipalities of Tilburg, Arnhem, Eindhoven, and Breda.

At the neighborhood level (four-digit postal code areas), it is mainly areas in a metropolitan area that score high. In the municipality of Rotterdam, there are no fewer than seven areas that we can find in the Top 20, followed by Tilburg (three areas) and Breda (two areas). Apparently there appears to be a contrast between high-scoring municipalities and high-scoring neighborhoods. At the municipal level, it is mainly small and medium-sized municipalities that are in the Top 20, while at the neighborhood level, large municipalities dominate. An obvious explanation is that there are areas of concentration of subversive activities in metropolitan areas. At the municipal level, the significance of these areas is less pronounced than at the neighborhood level.

Indicators of (possible) abuse

There are indicators that point to the intention to acquire residential and business premises for undermining criminal activities (preventive indicators). There are also indicators that point to that residential and business premises are already actually being used for undermining criminal activities (repressive indicators). Various preventive indicators have been identified based on checklists of the authorities involved, interviews with respondents and other studies. These indicators relate to the behavior and/or person of the prospective tenant. Indicators about the behavior of potential tenants that may indicate wrong intentions have to do with concealing the true identity of the (actual) tenant. These indicators then relate to not showing an original identity document, not registering in the BRP and willingness to pay the deposit/rent in cash (not leaving financial traces). The indicators regarding the person of the prospective tenant are less ‘hard’ and concrete. This concern, for example, the question of whether the tenant has a criminal record. Aside from whether the landlord can gain insight into this, the chance of a false positive result is significant just based on this indicator. Various repressive indicators have also been identified. The common denominator for these indicators is the tenant's deviant behavior. This applies to both rented homes and rented business premises. This could include walking in and out at ‘strange’ times, preventing outsiders from looking in, ‘exaggerated’ hinges and locks or strange smells. Local residents can play an important role in observing this deviant behavior, but the landlord can of course also keep a finger on the pulse by visiting the property with some regularity.

Criminogenic indicators

In addition, indicators have been identified at neighborhood level (criminogenic indicators) based on three neighborhood typologies: vulnerable neighborhoods, luxury apartment suburbs and peripheral areas. Indicators mentioned in connection with vulnerable neighborhoods are, for example, residents who systematically flout government rules (building without a permit, driving without a driver's license), ignore the authority of the government, sometimes take care of the weak in the neighborhood (as long as they – the weak ones – conform to the informal leaders), cooperate with or look away from criminal activities, bastard behavior and investing criminal money that benefits a neighborhood or local community. Luxury apartment (sub) districts are about characteristics of the physical environment. These apartments can be characterized as follows: relatively expensive house, indoor garage, elevator that opens directly into the house, private entrance, relatively new construction and often on the outskirts of the city. Finally, peripheral areas have been distinguished. This includes areas with small business units with an indoor garage and above and / or behind an office space and

rental companies of temporary storage (storage boxes). Business sites with old business premises with a low property-value where many small businesses are located or additional establishments (not registered in the business register) and where there are no or few high-capacity energy connections, run an increased risk of being used for subversive crime.

Foreign experiences

The foreign researchers paint a picture of the way in which private homes and business premises are used for undermining criminal activities, comparable to the Netherlands. For example, all researchers refer to illicit drug trafficking and drug production. Also mentioned are illegal prostitution (human trafficking), money laundering and illegal gambling. So there seems to be little difference with the Netherlands on this point. There may be a difference in the extent to which this occurs. However, it is not possible to compare the size based on this study, because this information is not available in these four countries. However, there are indications that the situation in these countries differs from the Dutch situation on several points. For example, there seem to be a relatively large number of meth labs in the Czech Republic, while the registered size of cannabis cultivation is a fraction of what we find in the Netherlands.

Indicators, mentioned by the researchers from Belgium and the Czech Republic, that point to the use of homes and business premises for undermining criminal activities are in line with the indicators that emerged in the Dutch part of the study. However, the researcher from Belgium does mention several specific indicators related to farms where criminal activities may take place, namely: the lack of a tractor, poor maintenance, no supply and removal of manure and a caravan on the farm.

The foreign researchers describe various legal measures that we are also partly familiar with in the Netherlands. At least, in arrangements like that. Nevertheless, the foreign interpretation of regulations can offer interesting starting points for the Dutch situation. This concerns the following five instruments:

- 1) Seizure of criminal assets. The way in which this has been designed in Italy may serve as an inspiration for further tightening up the Dutch approach.
- 2) Screening of companies. Again, the legislation in Italy (anti-mafia legislation) seems to offer the most possibilities. This is in line with the Dutch legislation, whereby it must be noted that it must be considered whether the scope of the legislation should not be expanded.
- 3) Municipal permits. In Antwerp, the New Municipal Act has been used to introduce (mutual) distance requirements for establishments of companies in vulnerable branches. It is not yet known whether such requirements could be included in the Dutch municipal zoning plans, if desired.
- 4) Registering lease contracts in the Land Registry. In the Czech Republic it is possible to register tenancy agreements in the Land Registry. This is not yet possible in the Dutch Registry.
- 5) Board / CEO's personally liable. In the Czech Republic, the board and/or CEO's who manage real estate can be held personally liable. In order to avert criminal prosecution where

appropriate, they are expected to be able to specify identifiable measures that can prevent the criminal use of their property. In the Netherlands, CEO's can also be held personally liable on the basis of provisions from the Civil Code, but the extent of this liability in connection with the rental of real estate has not been investigated further.

Aftermath

The study has mapped out how real estate is used for undermining activities, the estimated size and how this can be recognized. The underlying question is whether real estate owners have sufficient legal instruments to ensure that they do not rent their property to persons with malicious intentions. After dealing with this matter for a year, it is our impression that there is not so much a shortage of legal possibilities to prevent a home or business premises from being rented to someone with wrong intentions. There seem to be sufficient possibilities to check the identity of the tenant at the front. Owners who engage an intermediary, such as a rental agent, must make sure that they are working with a reliable party. Of a different order is the situation in which an existing tenant is tempted or threatened to make his rented home or rented business premises available for undermining criminal activities. Here too, the landlord can draw on all kinds of possibilities, not least by taking an active role himself in supervising the rented object. Looking for the solution a priori in new instruments is not necessarily an issue here. Utilizing the existing possibilities is our credo here too.

We have taken honest landlords as a starting point. Our investigation does not provide insight into the question to what extent the landlord knows that his property is possibly being used for undermining criminal activities. A firmer (repressive) commitment on that side of the story may yield more results in the long term than using even more instruments for the landlords acting in good faith. Recent inspections of ghost occupation and the bet on rogue rental brokers are striking examples of this.