

## Summaries

*Justitiële verkenningen* (Judicial explorations) is published six times a year by the Research and Documentation Centre of the Dutch Ministry of Justice and Security in cooperation with Boom juridisch. Each issue focuses on a central theme related to judicial policy. The section Summaries contains abstracts of the internationally most relevant articles of each issue. The central theme of this issue (no. 1, 2019) is *Court around the corner*.

### **The geographical arrangement of the Court system**

*Roland Eshuis*

This article relates the geographical allocation of Courts to access to justice. Travel distances within the Dutch system are higher than in surrounding countries, but still not extremely high. The scale of the Dutch Court organizations however, is extreme. On average, a Court location that handles small claims has jurisdiction over a territory with over half a million inhabitants. This large number of inhabitants automatically translates to large numbers of cases, and large bureaucracies, employing 500 to 1,000 people (judges, court staff, support) each. Do travel distances to the Courts actually have an impact on the use of the Court system? Two recent studies find no support for a popular belief that defendants will be less determined to defend themselves when the travel distance to the court is longer. They do show however that the number of cases brought to Court by local plaintiffs drops when 'their' local court closes down.

### **The justice of the peace in historical perspective**

*Emese von Bóné*

This article is about the history of the justice of the peace, a low profile judge where people easily have access to. The history of the justice of the peace goes back to the seventeenth century. The justice of the peace was reintroduced in the Netherlands in the French period, when the country was annexed by the French Empire under the reign of Napoleon. The justice of the peace was also introduced in Belgium and is still in use. The most important task of the justice of the peace is 'conciliation'. In the conciliation procedure the justice of the peace

has a very active role. The judge tries to mediate between the parties in order to come to an agreement.

### **The pilot of the low-threshold court in Rotterdam**

*Wim Wetzels*

Socially effective justice requires innovative legislation that allows the judge to experiment with simple procedures that bring parties together in order to prevent escalation of disputes. For that reason, the Dutch government has enabled experiments with low-threshold local civil courts. This article focuses on the experiences with such a court in Rotterdam. The court provides a simple, fast and cheap procedure with the aim of reaching a solution to the dispute in joint consultation. The article provides insight into the nature and the number of disputes that have been dealt with up to now.

### **Voluntary justice: Judges on the mediation path?**

*Dick Allewijn*

A characteristic difference between administration of justice and mediation so far was the element of voluntariness on the side of the clients. Administration of justice however is, for the citizen who is brought before the courts, not voluntary. Recently pilots have been started in which citizens can turn voluntarily to the Court at low cost, and not far from their neighborhood. Judges will not primarily aim at making a decision in accordance with the law, but at finding friendly solutions. Does this mean that judges are going to mediate? And if so, how should this be appreciated? In this contribution attention is paid to certain aspects of this question. It is argued that differences between jurisdiction and mediation still remain. More than mediators judges must act within the legal framework. The extent to which they can engage in the emotional undercurrent of conflicts is limited. Confidence in the Court is from a different origin than trust in the mediator, and that also makes a difference. And finally, a judge is competent to make a binding judgment, which influences the way he or she is looked at by the parties.

### **The Itinerant Judge as role model. The influence of reality television on the image of the judiciary**

*Annerie Smolders*

The tremendously popular television programme *De Rijdende Rechter* (The Itinerant Judge) has an uncomfortable relationship with official legal practice. Many people indeed think that the itinerant judge who arrives in their street to personally check neighbourly grievances has come as a representative of the Law with a capital L. It is not clear where reality TV stops and current legal practice begins. Things have become more complicated because the itinerant judge has become a symbol of the 'close-to-the-people' judge that is embraced by legal practice today. In this article the murky boundary between TV judges and official judiciary is investigated, taking into account the cult status of the itinerant judge, the effect of imagination on reality, similar phenomena in the United States and the current situation in the Netherlands.

### **Experiments in civil justice: a solution to what problem?**

*Kim van der Kraats*

In Dutch courts several pilots are being carried out in order to enhance the quality of civil procedure. The main focus of the pilots is to speed up the procedure and make it more cost-effective, while ensuring the procedure is easily accessible and is overseen by a mediating judge in a nearby court. This focus largely corresponds with aspects of the civil procedure that the courts and the minister of Justice have identified as in need of attention. The courts and the minister have focused on different specific problems and propose different solutions, however, and neither aims to address the quality of civil procedure as a whole. It is doubtful whether the proposals for improvement, put forward by the courts and the minister, can address the concerns they have intended to resolve and whether the overall quality of the civil procedure (for all civil cases instead of the simple ones) will be improved. Solutions to the problems of the civil procedure cannot be devised without first developing a clear picture of the problems people experience with civil procedures and the courts.

### **The best legal system possible**

*Maurits Barendrecht*

This article outlines the need in the Netherlands for socially effective justice that better resolves citizens' problems. The author argues that new forms of dispute resolution should be integrated in the justice system. The author first describes various types of innovations. Then he outlines the obstacles to innovations. A major obstacle is that many stakeholders in the existing legal system are simultaneously the gatekeepers for the admission of innovations. It is necessary to create an infrastructure that welcomes, reinforces, tests, finances and imports new treatments for legal problems.