

## **Seminar organised by**

**prof. Masahisa Deguchi, The Institute for Justice Systems in Comparative Law (IJSCL),  
Ritsumeikan University, Kyoto**

**March 2023**

## **The Dutch Preliminary Procedure**

**prof. dr. Bart Krans (Leiden University)**

Bart Krans, Leiden University, discusses the Dutch preliminary ruling procedure in this lecture. In 2012, the Preliminary Questions to the Supreme Court Act entered into force in the Netherlands. Based on this Act, lower courts in civil cases can submit questions to the Supreme Court without transferring the handling and decision of the case to the Supreme Court. This Preliminary Procedure does not concern the preliminary ruling procedure at the European Court of Justice. It concerns questions from lower courts to the Dutch Supreme Courts on legal issues.

There are several conditions for submitting preliminary questions to the Supreme Court. One of these conditions is that the questions can only concern legal aspects. Thus, the questions cannot concern the application of those rules of law.

After the Supreme Court's legal answer, the lower court resumes hearing and deciding the case. And the case takes its normal course again.

Why was this option to ask questions to the Dutch Supreme Court introduced in 2012? What have been the experiences in the first 10 years of this Act? The conclusion can be given away in advance: the instrument is usually considered a success in the Netherlands. In 2022, the Supreme Court itself organized a symposium focusing on this Preliminary Ruling Act.

In what types of cases have questions been raised in practice since its introduction? What were those questions about?

The rule applies at least to civil cases. Does this possibility also exist in criminal and tax cases?

Who can submit comments to the Supreme Court in such a preliminary ruling procedure before the Supreme Court formulates an answer? Are these only parties or can third parties also have their say?

This is the type of issues that will be addressed in this lecture, discussing the Dutch national Preliminary Procedure.

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**The position of the Judicial Officer in Dutch civil proceedings**

**prof. dr. Bart Krans (Leiden University)**

In this presentation, Bart Krans, Leiden University, discusses the position of the Judicial Officers in the Netherlands. Among other things, he addresses their position in the system of Dutch civil procedural law. He also discusses what the required training for Judicial Officers is and the supervision of their functioning. How to become and remain a Judicial Officer?

The tasks of Judicial Officers are twofold: official and non-official. What are their official duties? What role does the Judicial Officer for example play in the execution phase? And what kind of non official duties can a Dutch Judicial Officer perform?

The dual position of the Judicial Officer (also referred to as bailiff) will also be discussed. In fact, a special feature is that the Judicial Officer in the Netherlands is both a public official and an entrepreneur. What does this dual position mean?

The various models used in Europe in connection with the position of the bailiff in the civil justice system are mapped out. The advantages and disadvantages of those systems will be named.

Finally, some special issues surrounding the position of the bailiff in the Netherlands are discussed. For example, is it time to say goodbye to the dual position of the Judicial Officer in the Netherlands?