

Kraakwetboek

the new law forbidding squatting in the Netherlands.

In 2008 three political parties (CDA, ChristenUnie and VVD) began working on the new law "Kraaken en Leegstand Wet". It aims to completely criminalizing any and every form of squatting in the whole country. On the 15th of October 2009 the Dutch parliament (Tweede Kamer) voted in favour of the new law. The parties that supported this squatting ban were VVD, ChristenUnie, SGP, CDA, PVV and the independent member of the parliament Rita Verdonk.

For the new law to be passed the senate (Eerste Kamer) still has to vote on it.

What exactly does this law say?

In general you can split it into two parts.

The first one brings changes to laws in Het Wetboek van Strafrecht, Het Wetboek van Strafvordering and Uitveringswet. Those are the new articles that will forbid squatting.

Het Wetboek van Strafrecht:

- change in art. 138
- new art. 138 section a
- existing art. 138 section a becomes art. 138 section ab
- change in art. 139 section b
- removal of art. 429 together with all its sections.

Het Wetboek van Strafvordering:

- change in art. 67 section b
- new art. 551 section a.

Uitveringswet:

- change in art. 51 section a.

The second part of the law brings changes to Leegstandwet and Huisvestingswet. Shortly, these changes aim to prevent emptiness and to fine owners that keep their properties empty.



What does it mean?

The first part of the law (on which we focus in this pamphlet) puts the act of squatting on the list of crimes. In general the article 138a says that anyone who enters or stays in an empty building will be accused of squatting, which is forbidden by law and thus punishable. This means a third category fine or up to one year of imprisonment. If violence or threats are involved, the punishment will be a fourth category fine or up to two years of prison. Furthermore, if the act of squatting is 'committed' by two or more people, the punishment may be one third higher.

So the new law will bring two major changes:

- The act of squatting, which mainly means the occupation of a building that is empty or not in use, will be totally forbidden. The time the building has been empty doesn't matter since the article 429 (according to which a building that had been empty for more than a year could be 'legally' squatted) will be completely removed. Of course breaking into buildings that are in use is still punishable from article 138, with an extra

high maximum punishment (which is two years of prison or fourth category fine).

- Simply being in a squatted building will also be a crime. This basically means anyone in any and every squatted house. How long the house has been squatted doesn't matter at all. This means that anyone staying in a squat, not only the people who live there, but even those who are just visiting or passing by, is basically committing a crime. During a possible police raid even guests that are officially living somewhere else can be detained and prosecuted.

The new article 551a says that in case of committing a crime from article 138, 138a and 139 from the book of law (Het Wetboek van Strafrecht) every policeman can come in to a house without a warrant and arrest every person in that house plus remove all the belongings or order their removal. This article means that the owner of a building doesn't have to file a complaint to the police in order to start the eviction process. The owner can even be in different country (maybe hiding from the Dutch "justice" system), but the police will still have the right to defend their property from squatters.

What does this mean in practice?

The Dutch parliament suggests using hard repression during the first six months from the moment of implementing the law. By doing so, the parliament expects to scare away the majority of squatters and their supporters, and separate the supposed 'soft core' from the so-called 'hardcore' squatters. They are counting on these 'hardcore squatters' being a very small group that can then be easily controlled by government force. After this first half a year the parliament expects a total 'extinction' of squatting.

That's how the politicians imagine their theory being executed. Practice, however, is going to be different. Public prosecution already now says that the public prosecution, not the parliament, is the force that implements laws and that they will decide on priorities. The question is if the prosecutors and the police, with mayors as the chiefs of the police, have enough resources (this means the numbers of cops, material and technical supplies, number of places in prisons etc.) to implement the new law the way the parliament wants it. The mayor will still have final say over eviction orders for various reasons, but in the case of ordering not to evict the house owner can start a court procedure against the mayor's decision. These kind of cases have already happened in the past, and usually the judge overrules the mayor's decision in the owners' favour.

It's important to also pay attention to security issues. Squatting being classified as a crime gives the police and prosecution a whole new set of repression tools, like telephone tapping, longer custody time before court cases and so on.

Lawyers investigating the law and looking for loopholes in it agreed that the law is written in a way that fighting for squatting in a court room might be impossible. The only place to fight for squatting will be on the streets, where by constant squatting people can show that the new law doesn't work in practice and that people were, are and will be squatting. Some lawyers suggest not allowing ourselves to be scared of the maximum punishments, as they exist as a scare element and their application will remain the decision and interpretation of judges. This is also why it's extremely important to not let ourselves be divided into 'good' and 'bad', 'softcore' and 'hardcore' squatters.

The law is still not implemented and nobody knows how it will look like in practice, but one thing is certain: every existing squat should prepare their barricades and have their bouwstempels ready. As for future squatting actions, our strategies need to be completely rethought and changed according to the new reality we are about to face.

The fun is over, it's time to fight!