ADMINISTRATIVE SANCTIONS
IN THE EUROPEAN UNION

Oswald Jansen (ed.)
PREFACE

This book is focused on administrative sanctions and offers a thorough overview of the sanctioning systems of 13 EU Member States. The initial idea for this elaborate and challenging project is based on the impression that although sanctioning powers are of great importance in practice both at EU level and nationally, little comparative study has been done on this subject. More importantly, when studying law enforcement one should study both administrative law and criminal law sanctioning systems. In legal scholarship there is clear division between the scholarship in administrative law and the scholarship in criminal law. In the discussion of deterrent administrative sanctions, such as administrative fines (as we will see, in some legal systems remedial measures are not considered sanctions, only punitive measures are) both areas of scholarship should meet, as according to case law of the ECHR and many national constitutional courts, certain criminal law guarantees apply to administrative sanctions that have a punitive aim. The authors that have contributed to this book are both criminal law specialists and administrative law specialists, and they have all managed to address the theme from the perspective of both disciplines. This approach makes this book special.

The project to arrive at this result started with an international meeting of experts on 16 July 2004. Almost all the authors came to Utrecht that day to discuss the subject-matter and design of the project with each other and with colleagues from the Dutch Ministry of Justice and other practitioners interested in administrative sanctions. In the process of finalising this book since then, authors have updated their contributions, many of them even two or more times. They deserve admiration for their patience with the occasionally headache-inducing process to arrive at this result.

The realisation of the research project would not have been possible without the financial support of the Dutch Scientific Council (NWO) and the Dutch Ministry of Justice.

We would like to thank all colleagues and assistants involved for their efforts in publishing their work in most cases in a non-native language. All translators involved, and especially Maris van der Laak, cannot underestimate the value of their work to this book. Special thanks should also be addressed to Lucia van Tellegen and Lionel van den Berg, both students at the law school of Utrecht.
Preface

University, for their valuable support in finalising this book. And last but not least, we would also like to thank Intersentia for their willingness to publish this book.

We have every confidence that the present book will find its way to everyone who is interested in both administrative law and criminal law, and more precisely in law enforcement and administrative sanctioning.

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Oswald Jansen
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<td>a.v.v./avv</td>
<td>algemeen verbindend voorschrift – collective binding agreement</td>
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<td>CML Rev</td>
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<td>confer – compare</td>
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<td>Elliniki Epitheorissi Evropaikoou Dikaioù – Revue hellenique de droit Européen</td>
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<td>EC</td>
<td>European Community</td>
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<td>E(E)C</td>
<td>European (Economic) Community</td>
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<td>ECSC</td>
<td>European Coal and Steel Community</td>
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<td>ECJ</td>
<td>European Court of Justice</td>
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<td>EFET</td>
<td>National Institution for Food Inspection</td>
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<td>e.g.</td>
<td>exempli gratia – for example</td>
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<td>FGCG</td>
<td>The General Court – European Union (formerly known as The Court of First Instance)</td>
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<td>Einführungsgesetz zum Strafgesetzbuch – Introductory Law of the Penal Code</td>
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<td>Environmental Data Services</td>
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<td>etc.</td>
<td>et cetera</td>
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<td>EU</td>
<td>European Union</td>
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EU-JZG Bundesgesetz über die justizielle Zusammenarbeit in Strafsachen mit den Mitgliedstaaten der Europäischen Union (Federal Act on the judicial cooperation in criminal matters with the Member States of the European Union)

EU-VStVG Bundesgesetz über die Vollstreckung von Geldstrafen und Geldbußen von Verwaltungsbehörden im Rahmen der Europäischen Union (Federal Act on the execution of financial penalties imposed by administrative authorities of other EU Member States)

EWCW England and Wales Court of Appeal

FGD Fundo de Garantia dos Depósitos – Fund for the Guarantee of Deposits

FGG Gesetz über die Angelegenheiten der freiwilligen Gerichtsbarkeit – German Ex Parte Jurisdiction Act

FIOD-ECD Fiscale inlichtingen- en opsporingsdienst en Economische controledienst – Fiscal Intelligence and Investigation Service/Economic Investigation Service

FPA Freedom of Press Act

FSA Financial Service Authority (of the United Kingdom)

GALA Algemene wet bestuursrecht – General Administrative Law Act

GastG Gaststättengesetz – German Licensing Act

Gem.wet Gemeentewet – Municipalities Act

GewO Gewerbeordnung – Industrial Code

GG Grundgesetz – German Constitution

GPCL General principles of criminal law

GPPA General principles of proper administration

Gst. De Gemeente
testem – Legal periodical

GVG Gerichtsverfassungsgesetz – German Judicature Act

Gwwd Gezondheids- en welzijnswet voor dieren – Health and Welfare of Animals Act

HaO Administrative Court of Hämeenlinna

HAO Regional Administrative Court of Kuopio

HE Hallituksen esitykset – Government proposal to parliament for new legislation

HC Hellenic Constitution

Report HC Report of the House of Commons of the United Kingdom

HR Hoge Raad – Supreme Court in the fields of civil, criminal and tax law

Hw Huisvestingswet – Housing Allocation Act

ib./ibid. ibidem – in the same passage or page quoted above
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<td>ICCPR</td>
<td>International Convention on Civil and Political Rights</td>
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<td>i.e.</td>
<td><em>id est</em> – it is/that is more precisely</td>
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<tr>
<td>IGA</td>
<td>Inspeção Geral do Ambiente – General Inspectorate for the Environment</td>
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<td>IMOPPI</td>
<td>Instituto dos Mercados das Obras Públicas e Particulares do Imobiliário – Institute for the Market of Public and Private Real Estate Works</td>
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<td>IRS</td>
<td>Instituto de Reinserção Social – Institute for the Rehabilitation of Offenders</td>
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<td>JAP</td>
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<td>JBPlus</td>
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<td>JGG</td>
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<td><em>Jahrbuch des öffentlichen Rechts der Gegenwart</em> – Legal periodical</td>
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<td>T&amp;C</td>
<td>Tekst &amp; Commentaar – Text and Comments on Dutch Law</td>
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<tr>
<td>TEC</td>
<td>Treaty establishing the European Community</td>
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<tr>
<td>TEU</td>
<td>Treaty on European Union</td>
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<td>TFEU</td>
<td>Treaty on the Functioning of the European Union</td>
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<td>ToS</td>
<td>To Syntagma (The Constitution) – Legal periodical</td>
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<td>TOS</td>
<td>Tijdschrift voor Onderneming en Strafrecht – Legal periodical</td>
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<td>Tw</td>
<td>Telecommunicatiewet – (Dutch) Telecommunications Act</td>
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<tr>
<td>UKUT</td>
<td>United Kingdom Upper Tribunal</td>
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<td>UU</td>
<td>Universiteit Utrecht – University of Utrecht</td>
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<td>UvA</td>
<td>Universiteit van Amsterdam – University of Amsterdam</td>
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List of Abbreviations

UVSs
Unabhängige Verwaltungssenate der Länder – Austrian
Independent Administrative Panels of Provinces

UWG
Gesetz gegen den unlauteren Wettbewerb – Act on Unfair
Competition

UZwG
Gesetz über den unmittelbaren Zwang – Immediate
Coercion Act

VA
Verwaltungsakt – Administrative Act

VAR
Vereniging voor Bestuursrecht – Administrative Law
Association

VAR-reeks
Publicaties Vereniging voor Bestuursrecht – Legal
Periodical

VAT
Value Added Tax

vid. (infra)
vide (infra) – see (below)

VR
VerkeersRecht – Legal Periodical

VU
Vrije Universiteit – VU University of Amsterdam

VwGH
Verwaltungsgerichtshof – Administrative Court

VwGO
Verwaltungsgerichtsordnung – Rules of the
Administrative Courts

VwVfg
Verwaltungsverfahrensgesetz – Administrative
Procedural Law

VwVG
Verwaltungsvollstreckungsgesetz – Administration
Enforcement Law

VfGH
Verfassungsgerichtshof – Constitutional Court

VfSlg.
Sammlung der Erkenntnisse und wichtigsten Beschlüsse
des Verfassungsgerichtshofes – Collection of the decisions
and most important orders of the Austrian Constitutional
Court

VStG
Verwaltungsstrafgesetz – Austrian Act on Administrative
Criminal Law (in Germany, Vermögenssteuergesetz)

Vw 2000
Vreemdelingenwet 2000 – Aliens Act 2000

VwSlg
Sammlung der Erkenntnisse und Beschlüsse des
Verwaltungsgerichtshofes - Collection of the decisions
and most important orders of the Austrian Constitutional
Court

Wabm
Wet algemene bepalingen milieuhygiëne – Environmental
Protection (General Provisions) Act

Wabo
Wet algemene bepalingen omgevingsrecht –
Environmental Permitting (General Provisions) Act

Wav
Wet arbeid vreemdelingen – Foreign Nationals
(Employment) Act
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<th>Abbreviation</th>
<th>Full Form</th>
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<tr>
<td>Wahv</td>
<td>Wet administratiefrechtelijke handhaving verkeersvoorschriften (also: Wet Mulder) – Traffic Regulations (Administrative Enforcement) Act</td>
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<tr>
<td>Wbp</td>
<td>Wet bescherming persoonsgegevens – Personal Data Protection Act</td>
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<tr>
<td>WDO</td>
<td>Wehrdisziplinarordnung – German Military Disciplinary Code</td>
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<tr>
<td>Wed</td>
<td>Wet op de economische delicten – Economic Offences Act</td>
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<td>Wet idbb</td>
<td>Wet introductie dwangsom en bestuurlijke boete – Act on the Introduction of Penalty Payments and Administrative Fines (Financial Legislation) Act</td>
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<td>Wet ion</td>
<td>Wet informatie-uitwisseling ondergrondse netten – Underground Grids (Information Exchange) Act</td>
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<td>Wet Mulder</td>
<td>Wet administratiefrechtelijke handhaving verkeersvoorschriften (also: Wahv) – Traffic Regulations (Administrative Enforcement) Act</td>
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<td>Wft</td>
<td>Wet financieel toezicht – Financial Supervision Act</td>
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<td>WGB</td>
<td>Wet gewasbeschermingsmiddelen en biociden – Plant Protection Products and Biocides Act</td>
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<td>Wgp</td>
<td>Wet marktordering gezondheidszorg – Health Care (Market Regulation) Act</td>
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<td>Whc</td>
<td>Wet handhaving consumentenbescherming – Consumer Protection (Enforcement) Act</td>
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<td>Wet implementatie rechtsbeschermingsrichtlijnen aanbesteden – Improving the Effectiveness of Review Procedures concerning the Award of Public Contracts Directive (Implementation) Act</td>
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<td>Wet Kinderopvang en kwaliteitseisen peuterspeelzalen – Childcare Provisions Act and Quality Requirements for Playschools</td>
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<td>Wm</td>
<td>Wet milieubeheer – Environmental Management Act</td>
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<td>Wr</td>
<td>Wet ruimtevaartactiviteiten – Space Activities Act</td>
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<td>Wro</td>
<td>Wet ruimtelijke ordening – Spatial Planning Act</td>
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<tr>
<td>WRV</td>
<td>Weimarer Reichsverfassung – Weimar Reich Constitution</td>
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<tr>
<td>WStG</td>
<td>Wehrstrafgesetz – Military Criminal Code</td>
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<td>Wtt</td>
<td>Wet toezicht trustkantoren – Trust Offices (Supervision) Act</td>
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<tr>
<td>Abbreviation</td>
<td>Description</td>
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<td>Wwft</td>
<td>Wet ter voorkoming van witwassen en financiering van terrorisme – Money Laundering and Terrorist Financing (Prevention) Act</td>
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<tr>
<td>ZfV</td>
<td>Zeitschrift für Verwaltung – Legal periodical</td>
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<tr>
<td>ZPO</td>
<td>Zivilprozessordnung – Code of Civil Procedure</td>
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