SQUATTING: WHAT CAN AN OWNER DO?

written by Nathalie Schlenker | November 10, 2026

Intentionally occupying someone else's unoccupied property without any right or title and without valid permission is a criminal offence. However, not every disputed occupation is automatically squatting: an alleged lease, right of use or permission requires a separate assessment. An owner may ask the occupants to leave voluntarily, but may not carry out a forced eviction themselves. They can request a criminal eviction order through the public prosecutor (procureur des Konings) or seek a civil eviction from the justice of the peace (vrederechter).

Which route is most appropriate depends on the circumstances. It must first be clear who holds a right or title to the property, whether the occupants invoke a right of use, and which procedure suits the situation. This article brings together what owners need to know, including the consequences of the new Criminal Code, which has been in force since 1 September 2026.

Is squatting a criminal offence, and what has changed?

The Squatting Act of 18 October 2017 introduced a specific offence for entering, occupying or staying in unoccupied property without right or title. It also contained special rules on eviction and gave the public prosecutor the power to issue an eviction order.

In 2020, the Constitutional Court annulled the original arrangement for that order. The main problem was that it did not ensure review by an independent and impartial judge before the eviction was carried out. The Squatting Act as a whole was not annulled. The legislator restored the arrangement in 2022 with an additional safeguard: the public prosecutor must first obtain authorisation from the investigating judge.

The new Criminal Code retains the offence. Article 350 defines the unlawful occupation of an unoccupied place and provides for a level 1 penalty.

May I remove the occupants myself?

You may ask the occupants to leave voluntarily, but do not force them out yourself. Anyone who uses violence, changes the locks to shut the occupants out

or removes their belongings risks a complaint, a damages claim or criminal consequences, depending on the circumstances. Ownership does not give a free pass to take the law into your own hands. A forced eviction must therefore always go through the competent authorities.

What is the criminal eviction order?

At the request of the holder of a right or title to the property, the public prosecutor may issue an eviction order, but only after authorisation by the investigating judge. To obtain it, the prosecutor must submit a reasoned request. This includes, among other things, a description of the property, the documents and information showing the need for the measure and, as far as known, the identity of the occupants.

The investigating judge decides within a maximum of 72 hours of receiving the prosecutor's request. That period therefore does not start from the owner's complaint or request. The investigating judge assesses at least the legality and proportionality of the measure and, in principle, hears the occupants concerned, unless the specific circumstances make this impossible. Once authorisation is granted, the prosecutor issues the order. It requires the persons found on the premises to leave within eight days of the statutory notification. The prosecutor is responsible for enforcement.

Anyone who believes the order infringes their rights may lodge an appeal with the justice of the peace within eight days of the statutory notification. This appeal suspends enforcement, and the order also cannot be enforced while the appeal period is running. The owner is therefore not guaranteed to get the property back within eight days.

The justice of the peace examines whether the order is well founded, as well as the right or title invoked. In exceptional and serious circumstances, the justice of the peace may grant a longer period to leave, with a maximum of one month where the property belongs to a private individual or a company, and a maximum of six months where it belongs to a public authority.

What is civil eviction?

The holder of a right or title may also apply directly to the justice of the peace for the eviction of persons occupying the property without right or title. A prior criminal conviction is not required. The ordinary procedure begins with an adversarial petition (*verzoekschrift op tegenspraak*). An ex parte petition (*eenzijdig verzoekschrift*) is only possible in cases of absolute necessity. According to the Constitutional Court, this is limited to cases where the applicant,

despite their efforts, was unable to establish the identity of any of the occupants. Mere urgency is not sufficient.

The law provides for short summons periods: in principle eight days for adversarial proceedings and two days for an ex parte petition. These periods do not guarantee a final judgment or eviction within the same timeframe.

In principle, the eviction may take place from the eighth day after service of the judgment, and therefore not from the date it is delivered. In exceptional and serious circumstances, the judge may grant a longer period, with the same maximums: one month where the property belongs to a private individual or a company, and six months where it belongs to a public authority. The bailiff (*gerechtsdeurwaarder*) carries out the eviction and notifies the occupant of the actual date at least five working days in advance.

Which route is most appropriate?

The criminal route may allow for a swift approach, but the owner cannot compel an order or a fixed date of enforcement. The prosecutor must submit a reasoned request, the investigating judge must authorise the measure, and an appeal can delay enforcement. The civil route allows the rightholder to bring a claim before the justice of the peace themselves. It is not limited to non-urgent situations, as that procedure also contains short time limits.

An alleged lease, the identity of the occupants and any safety risks may influence the choice. It is therefore advisable to have the facts and the available evidence assessed first.

What should you do when your property is squatted?

Act quickly, but avoid taking the law into your own hands. Keep proof of your ownership or other right to the property and gather information about the occupation and any damage. Take dated photographs, without putting yourself at risk or entering unlawfully. If necessary, a bailiff can make official findings. Consult a lawyer before taking any measures, so that they can assess which procedure is appropriate and which documents are needed.

The specialists at STUDIO | LEGALE will assess your right to the property, the circumstances of the occupation and the available procedures. Contact us for advice on the most appropriate approach.

Legal sources

- Wet van 18 oktober 2017 betreffende het onrechtmatig binnendringen in, bezetten van of verblijven in andermans goed (Krakerswet), in het bijzonder artikel 12.
- *Grondwettelijk Hof, 12 maart 2020, nr. 39/2020.*
- Wet van 6 december 2022 om justitie menselijker, sneller en straffer te maken IIbis.
- Gerechtelijk Wetboek, artikelen 1344octies tot en met 1344duodecies.
- Artikel 350 van boek II van het nieuwe Strafwetboek (wet van 29 februari 2024), van kracht sinds 1 september 2026.