

2<sup>e</sup> édition  
LES **NULLITÉS**  
DE **PROCÉDURE**  
**PÉNALE**

Alexandre GALLOIS

Préface d'Olivier LEURENT



Gazette du Palais

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# Nullites Procedure Pnale Gallois Alexandre

**Marie-Aude Beernaert, Dimitri De  
Beco, Benoît Dejemeppe**



## **Nullities Procedure Pnale Gallois Alexandre:**

Les nullités de procédure pénale Alexandre Gallois (auteur d'une thèse de droit.), 2017-10-03 Les nullités de procédure jalonnent tout procès pénal Les enquêteurs et les magistrats les redoutent Les avocats les recherchent La défense pénale ne se limite pas une défense de fond Elle se traduit aussi par une défense de procédure dont la demande en nullité est la figure de proue A l'heure où les normes de procédure pénale sont multiples et volutives l'appréciation de la régularité des actes n'en est que plus difficile et incertaine Pris dans une dialectique entre la forme et le fond entre la manière et la matière entre des intérêts privés et l'intérêt général d'une bonne administration de la justice le juge pénal est le maître d'œuvre d'un système dont la cohérence et la prévisibilité font l'objet de critiques Quels actes de procédure peuvent être annulés Qui peut agir en nullité A quel moment et selon quelles modalités une demande en nullité doit elle être formée Comment le bien fondé d'une demande en nullité est-il apprécié Quels sont les effets d'une nullité Les réponses ces questions essentielles ne sont pas toujours aisées formuler tant les textes peuvent être lacunaires et la jurisprudence aussi foisonnante que fluctuante En définitive les nullités de procédure pénale sont l'image d'un labyrinthe D'où la nécessité et l'utilité d'un guide pour se repérer dans ce domaine théorique et pratique

La semaine juridique, 2006-10 **La théorie des nullités en droit pénal** Marie-Aude Beernaert, Dimitri De Beco, Benoît Dejemeppe, 2014 La question de la régularité de la preuve au pénal est un enjeu majeur de l'état de droit et de la démocratie La théorie des nullités qui régit le sort des preuves irrégulières a suscité de très vifs débats dans la doctrine depuis plus de dix ans La loi du 24 octobre 2013 vient de fournir une base légale la jurisprudence Antigone 0C est l'occasion idéale de faire le point sur la genèse sur les enjeux et sur l'évolution de la théorie des nullités tant en droit belge que dans la jurisprudence de la Cour européenne des droits de l'homme 0 Toutes les phases du procès pénal sont concernées par la régularité des preuves Quels sont les actes d'instruction prescrits peine de nullité quel moment la question de la régularité de la preuve doit elle être tranchée Quelles sont les sanctions prévues 0 L'ambition de cet ouvrage est de fournir un cadre théorique général mais également de répondre aux questions concrètes des praticiens

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