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How to bring a case to court

Netherlands

1 Do I have to go to court or is there another alternative?

No, you do not always have to go to court to resolve your dispute. In some cases, it is perfectly possible to make use of alternative forms of dispute resolution.

2 Is there any time limit to bring a court action?

Yes, usually there is, but the time limits to bring a court action vary from case to case and it is not possible to answer in general terms. For questions, it is best to contact a lawyer or the Legal Help Desk (*Juridisch loket*) (<http://www.juridischloket.nl>)

3 Should I go to a court in this Member State?

As a basic rule, the defendant is summoned by the court of the Member State of his/her residence.

4 If yes, which particular court should I go to in this Member State, given where I live and where the other party lives, or other aspects of my case?

Unless otherwise provided by law, your case must be brought before the district court for the place of residence of the defendant. In the absence of a known place of residence of the defendant in the Netherlands, the court for the place where this person is actually staying also has jurisdiction. You will therefore have to find out at which address and in which Dutch municipality the defendant lives. If that is known, you can consult the

[Judicial Classification Act \(Wet op de rechterlijke indeling\)](#) to find out in which judicial district the place of residence or stay is situated. On this basis, it is possible to determine the district court to which the case must be submitted.

5 Which particular court should I go to in this Member State, given the nature of my case and the amount at stake?

For the reply to this question, reference is made to the previous question. For further information to determine which court to bring your case before, we refer you to rechtspraak.nl.

6 Can I bring a court action by myself or do I have to go via an intermediary, such as a lawyer?

In the Netherlands, the legal principle is that the parties must be represented by a lawyer in civil and commercial matters. It makes no difference in this respect whether the matter involves proceedings initiated by writ of summons, proceedings initiated by application or summary proceedings, a procedure for an interim injunction or, for example, proceedings in default for failure to appear.

An exception applies only for claims up to a maximum of EUR 25 000 or for claims of indeterminate value, but where there is a clear indication that the value they represent does not exceed EUR 25 000. In these cases, the district court has jurisdiction and the parties can act on their own behalf in the proceedings.

The parties can also obtain assistance from persons other than lawyers, for example a legal adviser or a bailiff.

If the case involves an employment agreement, a collective bargaining agreement, a provision of a collective bargaining agreement declared to be generally binding, an early retirement agreement, as referred to in the Act on the Framework Agreement for Early Retirement of Government Officials (*Wet kaderregeling vut overheids personeel*), an agency agreement, a rental agreement or a lease-option agreement, it is also possible to act without a lawyer. For these cases, the amount of the claim in monetary terms is therefore irrelevant.

7 To initiate the case, who exactly do I apply to: to the reception office or the office of the clerk of the court or any other administration?

The written documents with which proceedings can be initiated must be addressed to the clerk's office of the competent court. It is necessary to bear in mind here the difference between proceedings initiated by writ of summons and proceedings initiated by application. In proceedings initiated by writ of summons, the writ of summons is first served on the defendant and then registered at the clerk's office. Both actions must be carried out by a bailiff. After this, the proceedings are conducted via the case-list (list of cases heard during the session). In proceedings initiated by application, an application is submitted directly to the clerk's office and the remainder of the proceedings are also conducted via the clerk's office of the competent court. Also see 'Service of documents'.

The procedure described above will change in the coming years when the legislation on (compulsory) electronic proceedings enters into force. This legislation is to be phased in from 2017 to 2021. Ultimately, electronic proceedings are to become mandatory in all cases with compulsory legal representation. These cases will then always start with submission of an originating document (*procesinleiding*) via the judicial service (*Rechtspraak*) web portal or via a system link between the judicial service and the lawyer. Reference is also made to the information concerning 'Automatic processing'.

8 In which language can I make my application? Can I do it orally or does it have to be in writing? Can I send my application by fax or by e-mail?

In the Netherlands, Dutch is the official language of court proceedings. This means that the writ of summons or the (written) application initiating proceedings must be drawn up in Dutch. As an exception, procedural documents in a case pending before a court established in the province of Friesland may be drawn up in Friesian.

Documents may also be lodged with the clerk's office of a district court by fax. Faxed documents received by the clerk's office before 24:00 on the final day are considered to have been submitted within the deadline. There is an exception to this: applications in family cases are not accepted if they have been sent by fax. Documents cannot be submitted by e-mail. From 2017 to 2021, electronic proceedings are to be phased in for all matters of civil and administrative law. If electronic proceedings have entered into effect for the type of case concerned, an action can be brought before the court electronically via the judicial service web portal.

9 Are there special forms for bringing actions, or, if not, how must I present my case? Are there elements that have to be included in the file?

Specific requirements are laid down by law concerning the content of a writ of summons or a (written) application initiating proceedings. Under the new legislation enabling electronic proceedings, there is only one way left of initiating proceedings. This legislation is to be phased in from September 2017 to 2021. For further information, reference is made to the

[National Rules of Procedure for civil summons to the courts \(Landelijk Procesreglement voor civiele dagvaardingen bij de rechtbanken\)](#) (under *Rechtbanken* (District Courts), *Handel* (Commerce)) and the

[Rules of Procedure for proceedings initiated by application in the commercial civil law sector/court in summary proceedings \(Procesreglement voor verzoekschriftenprocedure sector civiel handel/voorzieningenrechter\)](#)

Proceedings initiated by writ of summons

In proceedings initiated by writ of summons, the bailiff first serves the writ of summons on the defendant, then registers it at the clerk's office of the court. The summons must include: the name of the claimant, what the claim is, the name of the defendant, the grounds for the claim and the substantiating documents submitted by the claimant in support of the claim. The summons also states the date of the hearing and the court at which the case will be heard.

The file must contain the following documents:

The original writ of summons;

If the writ of summons has to be served abroad, the original documents showing that this has been done correctly;

Evidence of publicly funded legal aid or income statement or a copy of the application for publicly funded legal aid or income statement;

Evidence of the choice of domicile of the defendant;

The exhibits (documents) to be invoked in the proceedings;

The notification of whether mediation has first taken place before the proceedings and, in the cases listed below, copies of the following documents are also submitted:

if a claim is made for reimbursement of attachment costs, a copy of the attachment documents;

in cases of referral, the referral decision and the documents included up to the referral;

if the writ of summons has to be published or translated into a foreign language, the documents showing that this has occurred.

Proceedings initiated by application

In proceedings initiated by application, the application is submitted directly to the clerk's office and the rest of the proceedings are also conducted via the clerk's office of the competent court.

The file must contain the following documents:

First names, surname and place of residence or, in the absence of a place of residence in the Netherlands, the place where the applicant is actually staying, as well as

The name, address, place of residence or, in the absence of a place of residence in the Netherlands, the place where each defendant and each interested party is actually staying, as far as the applicant knows, as well as

A clear description of the application and the grounds on which it is based, including the grounds for the local jurisdiction of the court, as well as

The name and telephone number of the lawyer assigned to the case.

Any party invoking any document in the writ of summons, written statement or brief is required to enclose a copy of that document.

10 Will I have to pay court charges? If so, when? Will I have to pay a lawyer right from the introduction of my application?

Court fees must be paid on bringing a court action. Their amount depends on the nature and amount involved in the dispute. In practice, your lawyer will often advance this amount and subsequently charge it to you. If it is necessary during the course of the proceedings to call in an expert (for example, an auditor, medical expert or technical expert), the court will ultimately charge the costs to the losing party unless it decides otherwise (for example, in family cases, where the costs are usually borne by the party that has incurred them). The same also applies for the costs of witnesses or of other forms of evidence. Lawyers charge a fee for their activities which is based on an hourly rate (including/excluding VAT), unless there is entitlement to publicly funded legal aid (also see question 11). Lawyers' fees in the Netherlands in principle are not fixed. It is advisable to obtain information on the subject in good time from the lawyer representing you or from the Dutch Bar Association (*Nederlandse orde van Advocaten*). Most lawyers ask for an advance and subsequently declare their work in the course of the proceedings, followed by a final invoice.

11 Can I claim legal aid?

The possibility of publicly funded legal aid exists in the Netherlands. Anyone who needs, but cannot afford, legal assistance can claim a contribution towards legal expenses. The Legal Aid Board (*Raad voor rechtsbijstand*) then pays part of the costs of a lawyer, but an own contribution must also be paid. This contribution depends on the financial situation. The application is submitted by the lawyer to the Legal Aid Board. The eligibility conditions can be found on the Legal Aid Board website (<http://www.rvr.org/>).

12 From which moment is my action officially considered to have been brought? Will the authorities give me some feedback on whether or not my case has been properly presented?

Under the proceedings initiated by writ of summons, the lawsuit is pending from the date of the summons. The writ of summons is submitted by the claimant to the clerk's office no later than on the last day of opening of the clerk's office prior to the case-list date stipulated in the summons (scheduled date for the hearing). The clerk enters the case in the case-list of a single judge division.

The pendency of proceedings expires if the writ has not been submitted to the clerk's office by the aforementioned deadline, unless a valid recovery writ has been issued within two weeks of the case-list date stipulated in the writ of summons.

Under the proceedings initiated by application, the lawsuit is pending when the application has been submitted to the clerk's office.

In general, no confirmation is sent that a case has been validly presented. In cases initiated by writ of summons, if this writ is deficient, the claimant in some cases is given the opportunity to remedy the deficiency. The same applies in the case of proceedings initiated by application. However, the clerk's office is not obliged to offer this opportunity.

In proceedings which must be conducted electronically, the electronic system generates a confirmation of receipt which is included in the electronic case-file. The documents can be consulted electronically at all times by the parties.

13 Will I have detailed information about the timing of subsequent events (such as the time allowed for me to enter an appearance)?

Precise information concerning the timetable for proceedings cannot be given immediately by the clerk's office of the court or when the action is initiated.

Naturally, you will be notified when your case is finally to be heard. In general, the lawyer or the clerk's office will be able to say roughly when a case will be heard, but there is no entitlement to such notifications.

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